

AMENDED IN SENATE MAY 18, 2010

AMENDED IN SENATE APRIL 27, 2010

SENATE BILL

No. 1062

Introduced by Senator Strickland

February 16, 2010

An act to amend ~~Section 7480 of~~ *Sections 7480, 70372, 70375 and 70625 of, and to repeal Section 70401 of,* the Government Code, to amend Section 668 of the Harbors and Navigation Code, to amend Sections 266h, 266i, 273.6, 290.06, 786, 1203e, 1233.1, 1328d, 1417.6, 12021, 13821, 13885, 13885.1, 13885.2, 13885.4, 13885.6, and 13885.8 of, and to repeal Chapter 3 (commencing with Section 1228) of Title 8 of Part 2 of, the Penal Code, to amend Section 40000.7 of the Vehicle Code, and to repeal Section 58 of Chapter 28 of the Third Extraordinary Session of the Statutes of 2009, relating to public safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 1062, as amended, Strickland. Public safety omnibus bill.

(1) Existing law provides the circumstances in which a local or state government agency may procure the financial records of an individual in the course of a criminal or civil investigation and specifies certain instances where the dissemination of financial records may be required by an order by a judge. Under existing law, a court may order the production of relevant records in the possession of a real estate recordholder upon the ex parte application by a peace officer stating the records are relevant to an ongoing felony fraud investigation.

This bill would state that the provisions of existing law regarding the procurement of financial records by the government do not prohibit the production of real estate documents upon the ex parte application of a peace officer during the course of the felony fraud investigation.

(2) *Existing law, the Trial Court Facilities Act of 2002, provides for the transfer of the responsibility of a county to provide necessary and suitable court facilities by authorizing the transfer of the responsibility from a county to the Judicial Council. The act, in order to facilitate the transfer of facilities, establishes the Transitional State Court Facilities Construction Fund in the State Treasury to finance the bonded indebtedness associated with certain court facilities transferred to the Judicial Council pursuant to the act.*

This bill would repeal the provision establishing the Transitional State Court Facilities Construction Fund and would delete provisions of existing law providing for a reduction in court construction penalties for the amounts collected for transmission to that fund.

~~(2)~~

(3) Under existing law, persons convicted of specified drug offenses are subject to a separate consecutive 3-year term of imprisonment for each prior conviction of an offense in a list of similar drug offenses.

This bill would expand these lists of drug offenses.

~~(3)~~

(4) Existing law requires every person required to register as a sex offender to be subject to assessment by the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO). Existing law requires probation departments to do a SARATSO assessment on every eligible person for whom it prepares a probation report.

This bill would require probation departments to perform an assessment on eligible persons whether or not it prepares a probation report on that person, and would require that the assessment be done prior to the person's sentencing. By requiring additional SARATSO assessments by probation departments, this bill would impose a state-mandated local program.

~~(4)~~

(5) Existing law requires persons placed on probation to be under the supervision of a county probation officer. Existing law requires the probation department to compile a Facts of Offense Sheet, which includes the probationer's criminal history and the results of his or her SARATSO assessment, for every person who has been referred to the department who has been convicted of an offense that requires registration under the Sex Offender Registration Act. Existing law requires that the Facts of Offense Sheet be included in the probation officer's report and requires the probation officer to send a copy of the Facts of Offense Sheet to the Department of Justice Sex Offender

Tracking Program. Existing law requires that the Facts of Offense Sheet be made part of the registered sex offender's file maintained by the Department of Justice Sex Offender Tracking Program.

This bill would delete the requirement that the probation officer send a copy of the Facts of Offense Sheet to the Department of Justice Sex Offender Tracking Program and instead require the probation officer to send the Facts of Offense Sheet to the Department of Justice High Risk Sex Offender Program.

(6) Existing law requires the Facts of Offense Sheet to be included in the probation officer's report and permits the defendant to move the court to correct the Facts of Offense Sheet. Existing law requires that a probation officer's report include the results of the SARATSO assessment.

This bill would delete the requirement that the probation officer's report include the Facts of Offense Sheet and would delete the provision authorizing the defendant to move the court to correct the Facts of Offense Sheet. This bill would allow the defendant to move the court to correct the score of his or her SARATSO assessment in the probation officer's report.

~~(5)~~

(7) Under existing law, the pimping of, or the pandering of, a minor is a felony. Existing law imposes a higher triad of sentences if the minor is under 16 years of age than if the minor is over 16 years of age but does not specify the possible sentences if the minor is exactly 16 years of age.

This bill would clarify that if the minor victim is exactly 16 years of age or older, the lower triad of sentences applies.

~~(6)~~

(8) Existing law makes it a crime to possess a firearm if the person knows he or she is prohibited from doing so by the provisions of specified protective orders.

This bill would apply these provisions to a protective order sought by an officer of a postsecondary educational institution where a student has suffered a credible threat of violence.

~~(7)~~

(9) Two existing provisions of law both enact the California Community Corrections Performance Incentives Act. One of these provisions includes a victim representative on a local advisory panel created by the act.

This bill would repeal the version of the act that does not include the victim representative in its provisions.

(8)

(10) Existing law authorizes each county to establish a Community Corrections Performance Incentives Fund (CCPIF) and authorizes the state to annually allocate money into the State Corrections Performance Incentives Fund to be used for purposes relating to improving local probation supervision practices and capacities. Existing law requires the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts, to calculate the amount of money to be appropriated from the state fund into the CCPIF. Under existing law, the calculation is based on costs avoided by the Department of Corrections and Rehabilitation because of a reduction in the percentage of adult probationers sent to prison for probation failure. Under existing law, this calculation includes a statewide probation failure rate, calculated as the total number of adult felony probationers statewide sent to prison in the previous year as a percentage of the statewide adult felony population as of June 30 of the year that the calculation is being performed, and the probation failure rate for each county, calculated as the number of adult probationers sent to prison from each county in the previous year as a percentage of the county's adult felony probation population as of June 30 of the year that the calculation is being performed.

This bill would require that the statewide and county probation failure rates be calculated as the number of adult felony probationers sent to prison statewide, and by each county, in the previous year as a percentage of the statewide or county's average adult felony probation population for that year.

(9)

(11) Under existing law, the service of a subpoena by mail or messenger is effected if and when the recipient acknowledges receipt of the subpoena. Under existing law, acknowledgment may be made by telephone, mail, or in person.

This bill would include ~~any form of electronic communication~~ *e-mail or an online form provided by the sender of the subpoena* as an acceptable means of acknowledging the receipt of a subpoena for purposes of affecting service, *and would require the sender of the subpoena to retain any acknowledgment received by these methods*

until the court date for which the subpoena was issued, or a later date if specified by the court.

~~(10)~~

(12) Existing law, subject to the availability of funds, establishes the Sexual Habitual Offender Program in the Department of Justice and requires that it evaluate the number of arrests and convictions of sex offenses and the length of sentences for repeat offenders. Existing law defines a “sexual habitual offender” for purposes of the act as a person who has been convicted of 2 or more violent offenses against a person involving force or violence which include at least one sex offense, or as a person who has committed a crime which requires registration under the Sex Offender Registration Act and who has additional felony or misdemeanor arrests on his or her criminal record, as specified.

This bill would recast the Sexual Habitual Offender Program as the High Risk Sex Offender Program. This bill would delete the requirement that the program evaluate the number of arrests and convictions of sex offenses and the length of sentences for repeat offenders and would instead require the program to receive Facts of Offenses Sheets and use the scores of sex offenders reported on the sheets for identifying, assessing, monitoring, and containing sex offenders at high risk of reoffending. This bill would delete the definition of a “sexual habitual offender” for purposes of the program and replace it with “high risk sex offender” and would define a high risk sex offender as any person who is required to register under the Sex Offender Registration Act and who has been assessed with a score equivalent to “high risk” on the SARATSO, or who has been identified as being at a high risk of reoffending by the Department of Justice based on the person’s SARATSO score when considered in combination with unspecified empirically based risk factors.

~~(11)~~

(13) Existing law requires the Department of Justice to establish and maintain a comprehensive file of existing information maintained by law enforcement agencies, the Department of Corrections and Rehabilitation, the Department of Motor Vehicles, and the Department of Justice. Existing law allows the Department of Justice to request existing information from these agencies regarding sexual habitual offenders and requires these agencies, when requested, to provide copies of the information.

This bill would expand the requirement that the Department of Justice maintain files of existing information maintained by the above agencies

to include the State Department of Mental Health and probation departments. This bill would require the State Department of Mental Health and probation departments, in addition to the agencies already subject to the requirement, to provide existing information to the Department of Justice upon request regarding high risk sex offenders. By requiring probation departments to submit existing information upon the request of the Department of Justice, this bill would impose a state-mandated local program.

~~(12)~~

(14) Under existing law, the Department of Justice is required to provide a summary profile of a sexual habitual offender to each law enforcement agency when an individual registers in, or moves to, the area in which the law enforcement agency is located.

This bill would delete this requirement and instead require the Department of Justice to provide a bulletin to law enforcement agencies on each high risk sex offender via the California Sex Offender Registry and the California Law Enforcement Web (CLEW).

~~(13)~~

(15) This bill would make various technical corrections.

~~(14)~~

(16) The bill would provide that any section of any act, other than SB 1330, enacted by the Legislature during the 2010 calendar year that takes effect on or before January 1, 2011, and that affects a provision of this act would prevail over this act.

~~(15)~~

(17) By imposing additional duties of local probation departments, this bill would impose a state-mandated local program.

~~(16)~~

(18) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 7480 of the Government Code, as amended by Section 1 of Chapter 234 of the Statutes of 2008, is amended to read:

7480. Nothing in this chapter shall prohibit any of the following:

(a) The dissemination of any financial information that is not identified with, or identifiable as being derived from, the financial records of a particular customer.

(b) When any police or sheriff's department or district attorney in this state certifies to a bank, credit union, or savings association in writing that a crime report has been filed that involves the alleged fraudulent use of drafts, checks, access cards, or other orders drawn upon any bank, credit union, or savings association in this state, the police or sheriff's department or district attorney, a county adult protective services office when investigating the financial abuse of an elder or dependent adult, or a long-term care ombudsman when investigating the financial abuse of an elder or dependent adult, may request a bank, credit union, or savings association to furnish, and a bank, credit union, or savings association shall furnish, a statement setting forth the following information with respect to a customer account specified by the requesting party for a period 30 days prior to, and up to 30 days following, the date of occurrence of the alleged illegal act involving the account:

(1) The number of items dishonored.

(2) The number of items paid that created overdrafts.

(3) The dollar volume of the dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the bank, credit union, or savings association and customer to pay overdrafts.

(4) The dates and amounts of deposits and debits and the account balance on these dates.

(5) A copy of the signature card, including the signature and any addresses appearing on a customer's signature card.

(6) The date the account opened and, if applicable, the date the account closed.

(7) Surveillance photographs and video recordings of persons accessing the crime victim's financial account via an automated

1 teller machine (ATM) or from within the financial institution for
2 dates on which illegal acts involving the account were alleged to
3 have occurred. Nothing in this paragraph does any of the following:

4 (A) Requires a financial institution to produce a photograph or
5 video recording if it does not possess the photograph or video
6 recording.

7 (B) Affects any existing civil immunities as provided in Section
8 47 of the Civil Code or any other provision of law.

9 (8) A bank, credit union, or savings association that provides
10 the requesting party with copies of one or more complete account
11 statements prepared in the regular course of business shall be
12 deemed to be in compliance with paragraphs (1), (2), (3), and (4).

13 (c) When any police or sheriff's department or district attorney
14 in this state certifies to a bank, credit union, or savings association
15 in writing that a crime report has been filed that involves the
16 alleged fraudulent use of drafts, checks, access cards, or other
17 orders drawn upon any bank, credit union, or savings association
18 doing business in this state, the police or sheriff's department or
19 district attorney, a county adult protective services office when
20 investigating the financial abuse of an elder or dependent adult,
21 or a long-term care ombudsman when investigating the financial
22 abuse of an elder or dependent adult, may request, with the consent
23 of the account holder, the bank, credit union, or savings association
24 to furnish, and the bank, credit union, or savings association shall
25 furnish, a statement setting forth the following information with
26 respect to a customer account specified by the requesting party for
27 a period 30 days prior to, and up to 30 days following, the date of
28 occurrence of the alleged illegal act involving the account:

29 (1) The number of items dishonored.

30 (2) The number of items paid that created overdrafts.

31 (3) The dollar volume of the dishonored items and items paid
32 which created overdrafts and a statement explaining any credit
33 arrangement between the bank, credit union, or savings association
34 and customer to pay overdrafts.

35 (4) The dates and amounts of deposits and debits and the account
36 balance on these dates.

37 (5) A copy of the signature card, including the signature and
38 any addresses appearing on a customer's signature card.

39 (6) The date the account opened and, if applicable, the date the
40 account closed.

1 (7) Surveillance photographs and video recordings of persons
2 accessing the crime victim's financial account via an automated
3 teller machine (ATM) or from within the financial institution for
4 dates on which illegal acts involving this account were alleged to
5 have occurred. Nothing in this paragraph does any of the following:

6 (A) Requires a financial institution to produce a photograph or
7 video recording if it does not possess the photograph or video
8 recording.

9 (B) Affects any existing civil immunities as provided in Section
10 47 of the Civil Code or any other provision of law.

11 (8) A bank, credit union, or savings association doing business
12 in this state that provides the requesting party with copies of one
13 or more complete account statements prepared in the regular course
14 of business shall be deemed to be in compliance with paragraphs
15 (1), (2), (3), and (4).

16 (d) For purposes of subdivision (c), consent of the accountholder
17 shall be satisfied if an accountholder provides to the financial
18 institution and the person or entity seeking disclosure, a signed
19 and dated statement containing all of the following:

20 (1) Authorization of the disclosure for the period specified in
21 subdivision (c).

22 (2) The name of the agency or department to which disclosure
23 is authorized and, if applicable, the statutory purpose for which
24 the information is to be obtained.

25 (3) A description of the financial records that are authorized to
26 be disclosed.

27 (e) (1) The Attorney General, a supervisory agency, the
28 Franchise Tax Board, the State Board of Equalization, the
29 Employment Development Department, the Controller or an
30 inheritance tax referee when administering the Prohibition of Gift
31 and Death Taxes (Part 8 (commencing with Section 13301) of
32 Division 2 of the Revenue and Taxation Code), a police or sheriff's
33 department or district attorney, a county adult protective services
34 office when investigating the financial abuse of an elder or
35 dependent adult, a long-term care ombudsman when investigating
36 the financial abuse of an elder or dependent adult, a county welfare
37 department when investigating welfare fraud, a county
38 auditor-controller or director of finance when investigating fraud
39 against the county, or the Department of Corporations when
40 conducting investigations in connection with the enforcement of

1 laws administered by the Commissioner of Corporations, from
2 requesting of an office or branch of a financial institution, and the
3 office or branch from responding to a request, as to whether a
4 person has an account or accounts at that office or branch and, if
5 so, any identifying numbers of the account or accounts.

6 (2) No additional information beyond that specified in this
7 section shall be released to a county welfare department without
8 either the accountholder's written consent or a judicial writ, search
9 warrant, subpoena, or other judicial order.

10 (3) A county auditor-controller or director of finance who
11 unlawfully discloses information he or she is authorized to request
12 under this subdivision is guilty of the unlawful disclosure of
13 confidential data, a misdemeanor, which shall be punishable as
14 set forth in Section 7485.

15 (f) The examination by, or disclosure to, any supervisory agency
16 of financial records that relate solely to the exercise of its
17 supervisory function. The scope of an agency's supervisory
18 function shall be determined by reference to statutes that grant
19 authority to examine, audit, or require reports of financial records
20 or financial institutions as follows:

21 (1) With respect to the Commissioner of Financial Institutions
22 by reference to Division 1 (commencing with Section 99), Division
23 1.5 (commencing with Section 4800), Division 2 (commencing
24 with Section 5000), Division 5 (commencing with Section 14000),
25 Division 7 (commencing with Section 18000), Division 15
26 (commencing with Section 31000), and Division 16 (commencing
27 with Section 33000), of the Financial Code.

28 (2) With respect to the Controller by reference to Title 10
29 (commencing with Section 1300) of Part 3 of the Code of Civil
30 Procedure.

31 (3) With respect to the Administrator of Local Agency Security
32 by reference to Article 2 (commencing with Section 53630) of
33 Chapter 4 of Part 1 of Division 2 of Title 5 of the Government
34 Code.

35 (g) The disclosure to the Franchise Tax Board of (1) the amount
36 of any security interest that a financial institution has in a specified
37 asset of a customer or (2) financial records in connection with the
38 filing or audit of a tax return or tax information return that are
39 required to be filed by the financial institution pursuant to Part 10
40 (commencing with Section 17001), Part 11 (commencing with

1 Section 23001), or Part 18 (commencing with Section 38001), of
2 the Revenue and Taxation Code.

3 (h) The disclosure to the State Board of Equalization of any of
4 the following:

5 (1) The information required by Sections 6702, 6703, 8954,
6 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155,
7 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404,
8 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the
9 Revenue and Taxation Code.

10 (2) The financial records in connection with the filing or audit
11 of a tax return required to be filed by the financial institution
12 pursuant to Part 1 (commencing with Section 6001), Part 2
13 (commencing with Section 7301), Part 3 (commencing with Section
14 8601), Part 13 (commencing with Section 30001), Part 14
15 (commencing with Section 32001), and Part 17 (commencing with
16 Section 37001), of Division 2 of the Revenue and Taxation Code.

17 (3) The amount of any security interest a financial institution
18 has in a specified asset of a customer, if the inquiry is directed to
19 the branch or office where the interest is held.

20 (i) The disclosure to the Controller of the information required
21 by Section 7853 of the Revenue and Taxation Code.

22 (j) The disclosure to the Employment Development Department
23 of the amount of any security interest a financial institution has in
24 a specified asset of a customer, if the inquiry is directed to the
25 branch or office where the interest is held.

26 (k) The disclosure by a construction lender, as defined in Section
27 3087 of the Civil Code, to the Registrar of Contractors, of
28 information concerning the making of progress payments to a
29 prime contractor requested by the registrar in connection with an
30 investigation under Section 7108.5 of the Business and Professions
31 Code.

32 (l) Upon receipt of a written request from a local child support
33 agency referring to a support order pursuant to Section 17400 of
34 the Family Code, a financial institution shall disclose the following
35 information concerning the account or the person named in the
36 request, whom the local child support agency shall identify,
37 whenever possible, by social security number:

38 (1) If the request states the identifying number of an account at
39 a financial institution, the name of each owner of the account.

1 (2) Each account maintained by the person at the branch to
2 which the request is delivered, and, if the branch is able to make
3 a computerized search, each account maintained by the person at
4 any other branch of the financial institution located in this state.

5 (3) For each account disclosed pursuant to paragraphs (1) and
6 (2), the account number, current balance, street address of the
7 branch where the account is maintained, and, to the extent available
8 through the branch's computerized search, the name and address
9 of any other person listed as an owner.

10 (4) Whenever the request prohibits the disclosure, a financial
11 institution shall not disclose either the request or its response, to
12 an owner of the account or to any other person, except the officers
13 and employees of the financial institution who are involved in
14 responding to the request and to attorneys, employees of the local
15 child support agencies, auditors, and regulatory authorities who
16 have a need to know in order to perform their duties, and except
17 as disclosure may be required by legal process.

18 (5) No financial institution, or any officer, employee, or agent
19 thereof, shall be liable to any person for (A) disclosing information
20 in response to a request pursuant to this subdivision, (B) failing to
21 notify the owner of an account, or complying with a request under
22 this paragraph not to disclose to the owner, the request or disclosure
23 under this subdivision, or (C) failing to discover any account owned
24 by the person named in the request pursuant to a computerized
25 search of the records of the financial institution.

26 (6) The local child support agency may request information
27 pursuant to this subdivision only when the local child support
28 agency has received at least one of the following types of physical
29 evidence:

30 (A) Any of the following, dated within the last three years:

31 (i) Form 599.

32 (ii) Form 1099.

33 (iii) A bank statement.

34 (iv) A check.

35 (v) A bank passbook.

36 (vi) A deposit slip.

37 (vii) A copy of a federal or state income tax return.

38 (viii) A debit or credit advice.

39 (ix) Correspondence that identifies the child support obligor by
40 name, the bank, and the account number.

1 (x) Correspondence that identifies the child support obligor by
2 name, the bank, and the banking services related to the account of
3 the obligor.

4 (xi) An asset identification report from a federal agency.

5 (B) A sworn declaration of the custodial parent during the 12
6 months immediately preceding the request that the person named
7 in the request has had or may have had an account at an office or
8 branch of the financial institution to which the request is made.

9 (7) Information obtained by a local child support agency
10 pursuant to this subdivision shall be used only for purposes that
11 are directly connected with the administration of the duties of the
12 local child support agency pursuant to Section 17400 of the Family
13 Code.

14 (m) (1) As provided in paragraph (1) of subdivision (c) of
15 Section 666 of Title 42 of the United States Code, upon receipt of
16 an administrative subpoena on the current federally approved
17 interstate child support enforcement form, as approved by the
18 federal Office of Management and Budget, a financial institution
19 shall provide the information or documents requested by the
20 administrative subpoena.

21 (2) The administrative subpoena shall refer to the current federal
22 Office of Management and Budget control number and be signed
23 by a person who states that he or she is an authorized agent of a
24 state or county agency responsible for implementing the child
25 support enforcement program set forth in Part D (commencing
26 with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the
27 United States Code. A financial institution may rely on the
28 statements made in the subpoena and has no duty to inquire into
29 the truth of any statement in the subpoena.

30 (3) If the person who signs the administrative subpoena directs
31 a financial institution in writing not to disclose either the subpoena
32 or its response to any owner of an account covered by the subpoena,
33 the financial institution shall not disclose the subpoena or its
34 response to the owner.

35 (4) No financial institution, or any officer, employee, or agent
36 thereof, shall be liable to any person for (A) disclosing information
37 or providing documents in response to a subpoena pursuant to this
38 subdivision, (B) failing to notify any owner of an account covered
39 by the subpoena or complying with a request not to disclose to the
40 owner, the subpoena or disclosure under this subdivision, or (C)

1 failing to discover any account owned by the person named in the
2 subpoena pursuant to a computerized search of the records of the
3 financial institution.

4 (n) The dissemination of financial information and records
5 pursuant to any of the following:

6 (1) Compliance by a financial institution with the requirements
7 of Section 2892 of the Probate Code.

8 (2) Compliance by a financial institution with the requirements
9 of Section 2893 of the Probate Code.

10 (3) An order by a judge upon a written ex parte application by
11 a peace officer showing specific and articulable facts that there
12 are reasonable grounds to believe that the records or information
13 sought are relevant and material to an ongoing investigation of a
14 felony violation of Section 186.10 or of any felony subject to the
15 enhancement set forth in Section 186.11.

16 (A) The ex parte application shall specify with particularity the
17 records to be produced, which shall be only those of the individual
18 or individuals who are the subject of the criminal investigation.

19 (B) The ex parte application and any subsequent judicial order
20 shall be open to the public as a judicial record unless ordered sealed
21 by the court, for a period of 60 days. The sealing of these records
22 may be extended for 60-day periods upon a showing to the court
23 that it is necessary for the continuance of the investigation.
24 Sixty-day extensions may continue for up to one year or until
25 termination of the investigation of the individual or individuals,
26 whichever is sooner.

27 (C) The records ordered to be produced shall be returned to the
28 peace officer applicant or his or her designee within a reasonable
29 time period after service of the order upon the financial institution.

30 (D) Nothing in this subdivision shall preclude the financial
31 institution from notifying a customer of the receipt of the order
32 for production of records unless a court orders the financial
33 institution to withhold notification to the customer upon a finding
34 that the notice would impede the investigation.

35 (E) Where a court has made an order pursuant to this paragraph
36 to withhold notification to the customer under this paragraph, the
37 peace officer or law enforcement agency who obtained the financial
38 information shall notify the customer by delivering a copy of the
39 ex parte order to the customer within 10 days of the termination
40 of the investigation.

1 (4) An order by a judge issued pursuant to subdivision (c) of
2 Section 532f of the Penal Code.

3 (5) No financial institution, or any officer, employee, or agent
4 thereof, shall be liable to any person for any of the following:

5 (A) Disclosing information to a probate court pursuant to
6 Sections 2892 and 2893.

7 (B) Disclosing information in response to a court order pursuant
8 to paragraph (3).

9 (C) Complying with a court order under this subdivision not to
10 disclose to the customer, the order, or the dissemination of
11 information pursuant to the court order.

12 (o) Disclosure by a financial institution to a peace officer, as
13 defined in Section 830.1 of the Penal Code, pursuant to the
14 following:

15 (1) Paragraph (1) of subdivision (a) of Section 1748.95 of the
16 Civil Code, provided that the financial institution has first complied
17 with the requirements of paragraph (2) of subdivision (a) and
18 subdivision (b) of Section 1748.95 of the Civil Code.

19 (2) Paragraph (1) of subdivision (a) of Section 4002 of the
20 Financial Code, provided that the financial institution has first
21 complied with the requirements of paragraph (2) of subdivision
22 (a) and subdivision (b) of Section 4002 of the Financial Code.

23 (3) Paragraph (1) of subdivision (a) of Section 22470 of the
24 Financial Code, provided that any financial institution that is a
25 finance lender has first complied with the requirements of
26 paragraph (2) of subdivision (a) and subdivision (b) of Section
27 22470 of the Financial Code.

28 (p) When the governing board of the Public Employees'
29 Retirement System or the State Teachers' Retirement System
30 certifies in writing to a financial institution that a benefit recipient
31 has died and that transfers to the benefit recipient's account at the
32 financial institution from the retirement system occurred after the
33 benefit recipient's date of death, the financial institution shall
34 furnish the retirement system with the name and address of any
35 coowner, cosigner, or any other person who had access to the funds
36 in the account following the date of the benefit recipient's death,
37 or if the account has been closed, the name and address of the
38 person who closed the account.

39 (q) When the retirement board of a retirement system established
40 under the County Employees Retirement Law of 1937 certifies in

1 writing to a financial institution that a retired member or the
2 beneficiary of a retired member has died and that transfers to the
3 account of the retired member or beneficiary of a retired member
4 at the financial institution from the retirement system occurred
5 after the date of death of the retired member or beneficiary of a
6 retired member, the financial institution shall furnish the retirement
7 system with the name and address of any coowner, cosigner, or
8 any other person who had access to the funds in the account
9 following the date of death of the retired member or beneficiary
10 of a retired member, or if the account has been closed, the name
11 and address of the person who closed the account.

12 (r) When the Franchise Tax Board certifies in writing to a
13 financial institution that (1) a taxpayer filed a tax return that
14 authorized a direct deposit refund with an incorrect financial
15 institution account or routing number that resulted in all or a
16 portion of the refund not being received, directly or indirectly, by
17 the taxpayer; (2) the direct deposit refund was not returned to the
18 Franchise Tax Board; and (3) the refund was deposited directly
19 on a specified date into the account of an accountholder of the
20 financial institution who was not entitled to receive the refund,
21 then the financial institution shall furnish to the Franchise Tax
22 Board the name and address of any coowner, cosigner, or any other
23 person who had access to the funds in the account following the
24 date of direct deposit refund, or if the account has been closed, the
25 name and address of the person who closed the account.

26 SEC. 2. Section 7480 of the Government Code, as amended
27 by Section 2 of Chapter 234 of the Statutes of 2008, is amended
28 to read:

29 7480. Nothing in this chapter prohibits any of the following:

30 (a) The dissemination of any financial information that is not
31 identified with, or identifiable as being derived from, the financial
32 records of a particular customer.

33 (b) When any police or sheriff's department or district attorney
34 in this state certifies to a bank, credit union, or savings association
35 in writing that a crime report has been filed that involves the
36 alleged fraudulent use of drafts, checks, or other orders drawn
37 upon any bank, credit union, or savings association in this state,
38 the police or sheriff's department or district attorney, a county
39 adult protective services office when investigating the financial
40 abuse of an elder or dependent adult, or a long-term care

1 ombudsman when investigating the financial abuse of an elder or
2 dependent adult, may request a bank, credit union, or savings
3 association to furnish, and a bank, credit union, or savings
4 association shall furnish, a statement setting forth the following
5 information with respect to a customer account specified by the
6 requesting party for a period 30 days prior to, and up to 30 days
7 following, the date of occurrence of the alleged illegal act involving
8 the account:

9 (1) The number of items dishonored.

10 (2) The number of items paid that created overdrafts.

11 (3) The dollar volume of the dishonored items and items paid
12 which created overdrafts and a statement explaining any credit
13 arrangement between the bank, credit union, or savings association
14 and customer to pay overdrafts.

15 (4) The dates and amounts of deposits and debits and the account
16 balance on these dates.

17 (5) A copy of the signature card, including the signature and
18 any addresses appearing on a customer's signature card.

19 (6) The date the account opened and, if applicable, the date the
20 account closed.

21 (7) A bank, credit union, or savings association that provides
22 the requesting party with copies of one or more complete account
23 statements prepared in the regular course of business shall be
24 deemed to be in compliance with paragraphs (1), (2), (3), and (4).

25 (c) When any police or sheriff's department or district attorney
26 in this state certifies to a bank, credit union, or savings association
27 in writing that a crime report has been filed that involves the
28 alleged fraudulent use of drafts, checks, or other orders drawn
29 upon any bank, credit union, or savings association doing business
30 in this state, the police or sheriff's department or district attorney,
31 a county adult protective services office when investigating the
32 financial abuse of an elder or dependent adult, or a long-term care
33 ombudsman when investigating the financial abuse of an elder or
34 dependent adult, may request, with the consent of the
35 accountholder, the bank, credit union, or savings association to
36 furnish, and the bank, credit union, or savings association shall
37 furnish, a statement setting forth the following information with
38 respect to a customer account specified by the requesting party for
39 a period 30 days prior to, and up to 30 days following, the date of
40 occurrence of the alleged illegal act involving the account:

- 1 (1) The number of items dishonored.
- 2 (2) The number of items paid that created overdrafts.
- 3 (3) The dollar volume of the dishonored items and items paid
- 4 which created overdrafts and a statement explaining any credit
- 5 arrangement between the bank, credit union, or savings association
- 6 and customer to pay overdrafts.
- 7 (4) The dates and amounts of deposits and debits and the account
- 8 balance on these dates.
- 9 (5) A copy of the signature card, including the signature and
- 10 any addresses appearing on a customer's signature card.
- 11 (6) The date the account opened and, if applicable, the date the
- 12 account closed.
- 13 (7) A bank, credit union, or savings association doing business
- 14 in this state that provides the requesting party with copies of one
- 15 or more complete account statements prepared in the regular course
- 16 of business shall be deemed to be in compliance with paragraphs
- 17 (1), (2), (3), and (4).
- 18 (d) For purposes of subdivision (c), consent of the accountholder
- 19 shall be satisfied if an accountholder provides to the financial
- 20 institution and the person or entity seeking disclosure, a signed
- 21 and dated statement containing all of the following:
- 22 (1) Authorization of the disclosure for the period specified in
- 23 subdivision (c).
- 24 (2) The name of the agency or department to which disclosure
- 25 is authorized and, if applicable, the statutory purpose for which
- 26 the information is to be obtained.
- 27 (3) A description of the financial records that are authorized to
- 28 be disclosed.
- 29 (e) (1) The Attorney General, a supervisory agency, the
- 30 Franchise Tax Board, the State Board of Equalization, the
- 31 Employment Development Department, the Controller or an
- 32 inheritance tax referee when administering the Prohibition of Gift
- 33 and Death Taxes (Part 8 (commencing with Section 13301) of
- 34 Division 2 of the Revenue and Taxation Code), a police or sheriff's
- 35 department or district attorney, a county adult protective services
- 36 office when investigating the financial abuse of an elder or
- 37 dependent adult, a long-term care ombudsman when investigating
- 38 the financial abuse of an elder or dependent adult, a county welfare
- 39 department when investigating welfare fraud, a county
- 40 auditor-controller or director of finance when investigating fraud

1 against the county, or the Department of Corporations when
2 conducting investigations in connection with the enforcement of
3 laws administered by the Commissioner of Corporations, from
4 requesting of an office or branch of a financial institution, and the
5 office or branch from responding to a request, as to whether a
6 person has an account or accounts at that office or branch and, if
7 so, any identifying numbers of the account or accounts.

8 (2) No additional information beyond that specified in this
9 section shall be released to a county welfare department without
10 either the accountholder's written consent or a judicial writ, search
11 warrant, subpoena, or other judicial order.

12 (3) A county auditor-controller or director of finance who
13 unlawfully discloses information he or she is authorized to request
14 under this subdivision is guilty of the unlawful disclosure of
15 confidential data, a misdemeanor, which shall be punishable as
16 set forth in Section 7485.

17 (f) The examination by, or disclosure to, any supervisory agency
18 of financial records that relate solely to the exercise of its
19 supervisory function. The scope of an agency's supervisory
20 function shall be determined by reference to statutes that grant
21 authority to examine, audit, or require reports of financial records
22 or financial institutions as follows:

23 (1) With respect to the Commissioner of Financial Institutions
24 by reference to Division 1 (commencing with Section 99), Division
25 1.5 (commencing with Section 4800), Division 2 (commencing
26 with Section 5000), Division 5 (commencing with Section 14000),
27 Division 7 (commencing with Section 18000), Division 15
28 (commencing with Section 31000), and Division 16 (commencing
29 with Section 33000) of the Financial Code.

30 (2) With respect to the Controller by reference to Title 10
31 (commencing with Section 1300) of Part 3 of the Code of Civil
32 Procedure.

33 (3) With respect to the Administrator of Local Agency Security
34 by reference to Article 2 (commencing with Section 53630) of
35 Chapter 4 of Part 1 of Division 2 of Title 5 of the Government
36 Code.

37 (g) The disclosure to the Franchise Tax Board of (1) the amount
38 of any security interest that a financial institution has in a specified
39 asset of a customer or (2) financial records in connection with the
40 filing or audit of a tax return or tax information return that are

1 required to be filed by the financial institution pursuant to Part 10
2 (commencing with Section 17001), Part 11 (commencing with
3 Section 23001), or Part 18 (commencing with Section 38001) of
4 the Revenue and Taxation Code.

5 (h) The disclosure to the State Board of Equalization of any of
6 the following:

7 (1) The information required by Sections 6702, 6703, 8954,
8 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155,
9 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404,
10 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the
11 Revenue and Taxation Code.

12 (2) The financial records in connection with the filing or audit
13 of a tax return required to be filed by the financial institution
14 pursuant to Part 1 (commencing with Section 6001), Part 2
15 (commencing with Section 7301), Part 3 (commencing with Section
16 8601), Part 13 (commencing with Section 30001), Part 14
17 (commencing with Section 32001), and Part 17 (commencing with
18 Section 37001) of Division 2 of the Revenue and Taxation Code.

19 (3) The amount of any security interest a financial institution
20 has in a specified asset of a customer, if the inquiry is directed to
21 the branch or office where the interest is held.

22 (i) The disclosure to the Controller of the information required
23 by Section 7853 of the Revenue and Taxation Code.

24 (j) The disclosure to the Employment Development Department
25 of the amount of any security interest a financial institution has in
26 a specified asset of a customer, if the inquiry is directed to the
27 branch or office where the interest is held.

28 (k) The disclosure by a construction lender, as defined in Section
29 3087 of the Civil Code, to the Registrar of Contractors, of
30 information concerning the making of progress payments to a
31 prime contractor requested by the registrar in connection with an
32 investigation under Section 7108.5 of the Business and Professions
33 Code.

34 (l) Upon receipt of a written request from a local child support
35 agency referring to a support order pursuant to Section 17400 of
36 the Family Code, a financial institution shall disclose the following
37 information concerning the account or the person named in the
38 request, whom the local child support agency shall identify,
39 whenever possible, by social security number:

1 (1) If the request states the identifying number of an account at
2 a financial institution, the name of each owner of the account.

3 (2) Each account maintained by the person at the branch to
4 which the request is delivered, and, if the branch is able to make
5 a computerized search, each account maintained by the person at
6 any other branch of the financial institution located in this state.

7 (3) For each account disclosed pursuant to paragraphs (1) and
8 (2), the account number, current balance, street address of the
9 branch where the account is maintained, and, to the extent available
10 through the branch's computerized search, the name and address
11 of any other person listed as an owner.

12 (4) Whenever the request prohibits the disclosure, a financial
13 institution shall not disclose either the request or its response, to
14 an owner of the account or to any other person, except the officers
15 and employees of the financial institution who are involved in
16 responding to the request and to attorneys, employees of the local
17 child support agencies, auditors, and regulatory authorities who
18 have a need to know in order to perform their duties, and except
19 as disclosure may be required by legal process.

20 (5) No financial institution, or any officer, employee, or agent
21 thereof, shall be liable to any person for (A) disclosing information
22 in response to a request pursuant to this subdivision, (B) failing to
23 notify the owner of an account, or complying with a request under
24 this paragraph not to disclose to the owner, the request or disclosure
25 under this subdivision, or (C) failing to discover any account owned
26 by the person named in the request pursuant to a computerized
27 search of the records of the financial institution.

28 (6) The local child support agency may request information
29 pursuant to this subdivision only when the local child support
30 agency has received at least one of the following types of physical
31 evidence:

32 (A) Any of the following, dated within the last three years:

33 (i) Form 599.

34 (ii) Form 1099.

35 (iii) A bank statement.

36 (iv) A check.

37 (v) A bank passbook.

38 (vi) A deposit slip.

39 (vii) A copy of a federal or state income tax return.

40 (viii) A debit or credit advice.

1 (ix) Correspondence that identifies the child support obligor by
2 name, the bank, and the account number.

3 (x) Correspondence that identifies the child support obligor by
4 name, the bank, and the banking services related to the account of
5 the obligor.

6 (xi) An asset identification report from a federal agency.

7 (B) A sworn declaration of the custodial parent during the 12
8 months immediately preceding the request that the person named
9 in the request has had or may have had an account at an office or
10 branch of the financial institution to which the request is made.

11 (7) Information obtained by a local child support agency
12 pursuant to this subdivision shall be used only for purposes that
13 are directly connected with the administration of the duties of the
14 local child support agency pursuant to Section 17400 of the Family
15 Code.

16 (m) (1) As provided in paragraph (1) of subdivision (c) of
17 Section 666 of Title 42 of the United States Code, upon receipt of
18 an administrative subpoena on the current federally approved
19 interstate child support enforcement form, as approved by the
20 federal Office of Management and Budget, a financial institution
21 shall provide the information or documents requested by the
22 administrative subpoena.

23 (2) The administrative subpoena shall refer to the current federal
24 Office of Management and Budget control number and be signed
25 by a person who states that he or she is an authorized agent of a
26 state or county agency responsible for implementing the child
27 support enforcement program set forth in Part D (commencing
28 with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the
29 United States Code. A financial institution may rely on the
30 statements made in the subpoena and has no duty to inquire into
31 the truth of any statement in the subpoena.

32 (3) If the person who signs the administrative subpoena directs
33 a financial institution in writing not to disclose either the subpoena
34 or its response to any owner of an account covered by the subpoena,
35 the financial institution shall not disclose the subpoena or its
36 response to the owner.

37 (4) No financial institution, or any officer, employee, or agent
38 thereof, shall be liable to any person for (A) disclosing information
39 or providing documents in response to a subpoena pursuant to this
40 subdivision, (B) failing to notify any owner of an account covered

1 by the subpoena or complying with a request not to disclose to the
2 owner, the subpoena or disclosure under this subdivision, or (C)
3 failing to discover any account owned by the person named in the
4 subpoena pursuant to a computerized search of the records of the
5 financial institution.

6 (n) The dissemination of financial information and records
7 pursuant to any of the following:

8 (1) Compliance by a financial institution with the requirements
9 of Section 2892 of the Probate Code.

10 (2) Compliance by a financial institution with the requirements
11 of Section 2893 of the Probate Code.

12 (3) An order by a judge upon a written ex parte application by
13 a peace officer showing specific and articulable facts that there
14 are reasonable grounds to believe that the records or information
15 sought are relevant and material to an ongoing investigation of a
16 felony violation of Section 186.10 or of any felony subject to the
17 enhancement set forth in Section 186.11.

18 (A) The ex parte application shall specify with particularity the
19 records to be produced, which shall be only those of the individual
20 or individuals who are the subject of the criminal investigation.

21 (B) The ex parte application and any subsequent judicial order
22 shall be open to the public as a judicial record unless ordered sealed
23 by the court, for a period of 60 days. The sealing of these records
24 may be extended for 60-day periods upon a showing to the court
25 that it is necessary for the continuance of the investigation.
26 Sixty-day extensions may continue for up to one year or until
27 termination of the investigation of the individual or individuals,
28 whichever is sooner.

29 (C) The records ordered to be produced shall be returned to the
30 peace officer applicant or his or her designee within a reasonable
31 time period after service of the order upon the financial institution.

32 (D) Nothing in this subdivision shall preclude the financial
33 institution from notifying a customer of the receipt of the order
34 for production of records unless a court orders the financial
35 institution to withhold notification to the customer upon a finding
36 that the notice would impede the investigation.

37 (E) Where a court has made an order pursuant to this paragraph
38 to withhold notification to the customer under this paragraph, the
39 peace officer or law enforcement agency who obtained the financial
40 information shall notify the customer by delivering a copy of the

1 ex parte order to the customer within 10 days of the termination
2 of the investigation.

3 (4) An order by a judge issued pursuant to subdivision (c) of
4 Section 532f of the Penal Code.

5 (5) No financial institution, or any officer, employee, or agent
6 thereof, shall be liable to any person for any of the following:

7 (A) Disclosing information to a probate court pursuant to
8 Sections 2892 and 2893.

9 (B) Disclosing information in response to a court order pursuant
10 to paragraph (3).

11 (C) Complying with a court order under this subdivision not to
12 disclose to the customer, the order, or the dissemination of
13 information pursuant to the court order.

14 (o) Disclosure by a financial institution to a peace officer, as
15 defined in Section 830.1 of the Penal Code, pursuant to the
16 following:

17 (1) Paragraph (1) of subdivision (a) of Section 1748.95 of the
18 Civil Code, provided that the financial institution has first complied
19 with the requirements of paragraph (2) of subdivision (a) and
20 subdivision (b) of Section 1748.95 of the Civil Code.

21 (2) Paragraph (1) of subdivision (a) of Section 4002 of the
22 Financial Code, provided that the financial institution has first
23 complied with the requirements of paragraph (2) of subdivision
24 (a) and subdivision (b) of Section 4002 of the Financial Code.

25 (3) Paragraph (1) of subdivision (a) of Section 22470 of the
26 Financial Code, provided that any financial institution that is a
27 finance lender has first complied with the requirements of
28 paragraph (2) of subdivision (a) and subdivision (b) of Section
29 22470 of the Financial Code.

30 (p) When the governing board of the Public Employees'
31 Retirement System or the State Teachers' Retirement System
32 certifies in writing to a financial institution that a benefit recipient
33 has died and that transfers to the benefit recipient's account at the
34 financial institution from the retirement system occurred after the
35 benefit recipient's date of death, the financial institution shall
36 furnish the retirement system the name and address of any coowner,
37 cosigner, or any other person who had access to the funds in the
38 account following the date of the benefit recipient's death, or if
39 the account has been closed, the name and address of the person
40 who closed the account.

(q) When the retirement board of a retirement system established under the County Employees Retirement Law of 1937 certifies in writing to a financial institution that a retired member or the beneficiary of a retired member has died and that transfers to the account of the retired member or beneficiary of a retired member at the financial institution from the retirement system occurred after the date of death of the retired member or beneficiary of a retired member, the financial institution shall furnish the retirement system the name and address of any coowner, cosigner, or any other person who had access to the funds in the account following the date of death of the retired member or beneficiary of a retired member, or if the account has been closed, the name and address of the person who closed the account.

(r) When the Franchise Tax Board certifies in writing to a financial institution that (1) a taxpayer filed a tax return that authorized a direct deposit refund with an incorrect financial institution account or routing number that resulted in all or a portion of the refund not being received, directly or indirectly, by the taxpayer; (2) the direct deposit refund was not returned to the Franchise Tax Board; and (3) the refund was deposited directly on a specified date into the account of an accountholder of the financial institution who was not entitled to receive the refund, then the financial institution shall furnish to the Franchise Tax Board the name and address of any coowner, cosigner, or any other person who had access to the funds in the account following the date of direct deposit refund, or if the account has been closed, the name and address of the person who closed the account.

(s) This section shall become operative on January 1, 2013.

SEC. 3. Section 70372 of the Government Code is amended to read:

70372. (a) (1) Except as otherwise provided in subdivision (b) of Section 70375 and in this article, there shall be levied a state court construction penalty, in the amount of five dollars (\$5) for every ten dollars (\$10), or part of ten dollars (\$10), upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including, but not limited to, all offenses involving a violation of a section of the Fish and Game Code, the Health and Safety Code, or the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code. This penalty is in addition to any other state or local penalty, including, but not limited to,

1 the penalty provided by Section 1464 of the Penal Code and
2 Section 76000.

3 ~~(2) The amount of the court construction penalty may be reduced~~
4 ~~by a county as provided in subdivision (b) of Section 70375.~~

5 ~~(3)~~

6 (2) This construction penalty does not apply to the following:

7 (A) Any restitution fine.

8 (B) Any penalty authorized by Section 1464 of the Penal Code
9 or Chapter 12 (commencing with Section 76000) of Title 8.

10 (C) Any parking offense subject to Article 3 (commencing with
11 Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

12 (D) The state surcharge authorized by Section 1465.7 of the
13 Penal Code.

14 ~~(4)~~

15 (3) Any bail schedule adopted pursuant to Section 1269b of the
16 Penal Code or adopted by the Judicial Council pursuant to Section
17 40310 of the Vehicle Code may include the necessary amount to
18 pay the penalty established by this section, the penalties authorized
19 by Section 1464 of the Penal Code and Chapter 12 (commencing
20 with Section 76000) of Title 8, and the surcharge authorized by
21 Section 1465.7 of the Penal Code for all matters where a personal
22 appearance is not mandatory and the bail is posted primarily to
23 guarantee payment of the fine. After a determination by the court
24 of the amount due, the clerk of the court shall collect the penalty
25 and transmit it immediately to the county treasury and the county
26 treasurer shall transmit these sums as provided in subdivision (f).

27 (b) In addition to the penalty provided by subdivision (a), for
28 every parking offense where a parking penalty, fine, or forfeiture
29 is imposed, an added state court construction penalty of four dollars
30 and fifty cents (\$4.50) shall be included in the total penalty, fine,
31 or forfeiture. These moneys shall be taken from fines and
32 forfeitures deposited with the county treasurer prior to any division
33 pursuant to Section 1462.3 or 1463.009 of the Penal Code. In those
34 cities, districts, or other issuing agencies which elect to accept
35 parking penalties, and otherwise process parking violations
36 pursuant to Article 3 (commencing with Section 40200) of Chapter
37 1 of Division 17 of the Vehicle Code, that city, district, or issuing
38 agency shall observe the increased bail amounts as established by
39 the court reflecting the added penalty provided for by this
40 subdivision. Each agency that elects to process parking violations

1 shall pay to the county treasurer four dollars and fifty cents (\$4.50)
2 for the parking penalty imposed by this subdivision for each
3 violation that is not filed in court. Those payments to the county
4 treasurer shall be made monthly, and the county treasurer shall
5 transmit these sums as provided in paragraph (2) of subdivision
6 (f).

7 (c) If multiple offenses are involved, the state court construction
8 penalty under subdivision (a) shall be based upon the total fine or
9 bail for each case. If a fine is suspended, in whole or in part, the
10 state court construction penalty under subdivision (a) shall be
11 reduced in proportion to the suspension.

12 (d) If any deposited bail is made for an offense to which this
13 section applies, and for which a court appearance is not mandatory,
14 the person making the deposit shall also deposit a sufficient amount
15 to include the state court construction penalty prescribed by
16 subdivision (a) for forfeited bail. If bail is returned, the state court
17 construction penalty paid thereon pursuant to subdivision (a) shall
18 also be returned.

19 (e) In any case where a person convicted of any offense, to
20 which this section applies, is in prison until the fine is satisfied,
21 the judge may waive all or any part of the state court construction
22 penalty, the payment of which would work a hardship on the person
23 convicted or his or her immediate family.

24 (f) (1) Within 45 days after the end of the month that moneys
25 are deposited in the county treasury pursuant to subdivision (a),
26 the county treasurer shall transmit the moneys to the Controller,
27 to be deposited as follows:

28 (A) The total to be deposited pursuant to subdivision (a) shall
29 be multiplied by a fraction as follows:

30 (i) The numerator is the amount imposed as of January 1, 1998,
31 as an additional penalty on every ten dollars (\$10), or part of ten
32 dollars (\$10), upon every fine, penalty, or forfeiture, if any, for
33 deposit into the local courthouse construction fund in that county
34 established pursuant to Sections 76000 and 76100. The numerator
35 shall be expressed in whole dollars and fractions of a dollar.

36 (ii) The denominator is five dollars (\$5).

37 (B) The resulting amount shall be deposited in the Immediate
38 and Critical Needs Account of the State Court Facilities
39 Construction Fund, established in Section 70371.5.

1 (C) The remaining amount of the deposit shall be deposited in
2 the State Court Facilities Construction Fund.

3 (2) Within 45 days after the end of the month that moneys are
4 deposited in the county treasury pursuant to subdivision (b), the
5 county treasurer shall transmit the moneys to the Controller to be
6 deposited as follows: one-third of the total amount shall be
7 deposited in the State Court Facilities Construction Fund and
8 two-thirds of the total amount shall be deposited in the Immediate
9 and Critical Needs Account of the State Court Facilities
10 Construction Fund, established in Section 70371.5.

11 *SEC. 4. Section 70375 of the Government Code is amended to*
12 *read:*

13 70375. (a) This article shall take effect on January 1, 2003,
14 and the fund, penalty, and fee assessment established by this article
15 shall become operative on January 1, 2003, except as otherwise
16 provided in this article.

17 ~~(b) In each county, the five-dollar (\$5) penalty amount~~
18 ~~authorized by subdivision (a) of Section 70372 shall be reduced~~
19 ~~by the amount collected for transmission to the state for inclusion~~
20 ~~in the Transitional State Court Facilities Construction Fund~~
21 ~~established pursuant to Section 70401 to the extent it is funded by~~
22 ~~money from the local courthouse construction fund.~~

23 ~~(c)~~
24 (b) The authority for all of the following shall expire
25 proportionally on the June 30th following the date of transfer of
26 responsibility for facilities from the county to the Judicial Council,
27 except so long as money is needed to pay for construction provided
28 for in those sections and undertaken prior to the transfer of
29 responsibility for facilities from the county to the Judicial Council:

30 (1) An additional penalty for a local courthouse construction
31 fund established pursuant to Section 76100.

32 (2) A filing fee surcharge in the County of Riverside established
33 pursuant to Section 70622.

34 (3) A filing fee surcharge in the County of San Bernardino
35 established pursuant to Section 70624.

36 (4) A filing fee surcharge in the City and County of San
37 Francisco established pursuant to Section 70625.

38 ~~(d)~~
39 (c) For purposes of subdivision (c), the term “proportionally”
40 means that proportion of the fee or surcharge that shall expire upon

1 the transfer of responsibility for a facility that is the same
2 proportion as the square footage that facility bears to the total
3 square footage of court facilities in that county.

4 *SEC. 5. Section 70401 of the Government Code is repealed.*

5 ~~70401. There is hereby established in the State Treasury the~~
6 ~~Transitional State Court Facilities Construction Fund. For each~~
7 ~~facility transferred to the state that is subject to bonded~~
8 ~~indebtedness and for which a revenue source is also transferred to~~
9 ~~the state, pursuant to subdivision (b) of Section 70325, a separate~~
10 ~~account shall be established in the fund to receive and disburse~~
11 ~~moneys for that facility. The county shall continue to collect and~~
12 ~~transmit to the Controller for deposit in the fund the moneys~~
13 ~~transferred to service the debt on the facility. The fund shall cease~~
14 ~~to exist when all debt transferred to the state pursuant to Section~~
15 ~~70325 has been paid.~~

16 *SEC. 6. Section 70625 of the Government Code is amended to*
17 *read:*

18 70625. (a) Notwithstanding any other law, for the purpose of
19 assisting the City and County of San Francisco in the acquisition,
20 rehabilitation, construction, and financing of courtrooms or of a
21 courtroom building or buildings containing facilities necessary or
22 incidental to the operation of the justice system, the Board of
23 Supervisors of the City and County of San Francisco may require
24 the amounts collected pursuant to subdivision (d) to be deposited
25 in the Courthouse Construction Fund established pursuant to
26 Section 76100. In the City and County of San Francisco, the
27 moneys of the Courthouse Construction Fund together with any
28 interest earned thereon shall be payable only for the foregoing
29 purposes and at the time necessary therefor, and for the purposes
30 set forth in subdivision (b) and at the time necessary therefor.

31 (b) In conjunction with the acquisition, rehabilitation,
32 construction, or financing of courtrooms or of a courtroom building
33 or buildings referred to in subdivision (a), the City and County of
34 San Francisco may use the moneys of the Courthouse Construction
35 Fund (1) to rehabilitate existing courtrooms or an existing
36 courtroom building or buildings for other uses if new courtrooms
37 or a courtroom building or buildings are acquired, constructed, or
38 financed or (2) to acquire, rehabilitate, construct, or finance excess
39 courtrooms or an excess courtroom building or buildings if that
40 excess is anticipated to be needed at a later time.

(c) Any excess courtrooms or excess courtroom building or buildings that are acquired, rehabilitated, constructed, or financed pursuant to subdivision (b) may be leased or rented for uses other than the operation of the justice system until such time as the excess courtrooms or excess courtroom building or buildings are needed for the operation of the justice system. Any amounts received as lease or rental payments pursuant to this subdivision shall be deposited in the Courthouse Construction Fund.

(d) In the City and County of San Francisco, a surcharge for the purpose and for the time set forth in this section may be added to the filing fees under Sections 70611, 70612, 70613, 70614, 70650, 70651, 70652, 70653, 70655, and 70670 in any civil, family, or probate action in the superior court. The surcharge shall be in an amount, not to exceed fifty dollars (\$50), as set forth in a resolution adopted by the Board of Supervisors of the City and County of San Francisco. If a surcharge under this section is imposed on a filing fee, the distribution that would otherwise be made to the State Court Facilities Construction Fund under subdivision (c) of Section 68085.3 or subdivision (c) of Section 68085.4 shall be reduced as provided in Section 70603. The county shall notify in writing the superior court and the Administrative Office of the Courts of any change in a surcharge under this section. When the amortized costs that are to be repaid from this fund have been repaid, the county shall notify in writing the superior court and the Administrative Office of Courts, and the surcharge under this section shall terminate, as provided in subdivision (e) (b) of Section 70375.

~~SEC. 3.~~

SEC. 7. Section 668 of the Harbors and Navigation Code is amended to read:

668. (a) Any person who violates subdivision (c) of Section 652, Section 654, 654.05, 654.06, 655.7, 658.3, 659, 673, 674, or 754, or any regulations adopted pursuant thereto, or any regulation adopted pursuant to Section 655.3 relating to vessel equipment requirements, is guilty of an infraction, punishable by a fine of not more than two hundred fifty dollars (\$250).

(b) (1) Any person who violates Section 655.2, or any regulation adopted pursuant thereto, or, except as provided in subdivision (a), any regulation adopted pursuant to Section 655.3, is guilty of a misdemeanor and shall be punished by a fine of not more than

1 one hundred dollars (\$100) or imprisonment in the county jail for
2 not more than five days, or by both that fine and imprisonment,
3 for each violation.

4 (2) Any person who violates subdivision (a) or (b) of Section
5 658 is guilty of a misdemeanor and shall be punished by a fine of
6 not more than two hundred dollars (\$200) for each violation.

7 (3) Any person who violates subdivision (d) of Section 652,
8 Section 652.5, subdivision (a) of Section 655, Section 655.05, 656,
9 or 656.1, subdivision (d) or (e) of Section 658, Section 663.6 or
10 665, or any rules and regulations adopted pursuant to subdivision
11 (b) or (c) of Section 660, is guilty of a misdemeanor and shall be
12 punished by a fine of not more than one thousand dollars (\$1,000)
13 or imprisonment in the county jail for not more than six months,
14 or by both that fine and imprisonment, for each violation.

15 (c) (1) Any person convicted of a violation of Section 656.2 or
16 656.3 shall be punished by a fine of not less than one thousand
17 dollars (\$1,000) or more than ten thousand dollars (\$10,000), or
18 by imprisonment in the state prison or in the county jail for not
19 more than one year, or by both that fine and imprisonment.

20 (2) In imposing the minimum fine required by this subdivision,
21 the court shall take into consideration the defendant's ability to
22 pay the fine and, in the interest of justice for reasons stated in the
23 record, may reduce the amount of that minimum fine to less than
24 the amount otherwise required by this subdivision.

25 (d) Any person convicted of a violation of Section 658.5 shall
26 be punished by a fine of not more than one hundred dollars (\$100).

27 (e) Any person convicted of a first violation of subdivision (b),
28 (c), (d), or (e) of Section 655, or of a violation of Section 655.4,
29 shall be punished by a fine of not more than one thousand dollars
30 (\$1,000) or imprisonment in the county jail for not more than six
31 months, or by both that fine and imprisonment. If probation is
32 granted, the court, as a condition of probation, may require the
33 person to participate in, and successfully complete, an alcohol or
34 drug education, training, or treatment program, in addition to
35 imposing any penalties required by this code. In order to enable
36 all persons to participate in licensed programs, every person
37 referred to a program licensed pursuant to Section 11836 of the
38 Health and Safety Code shall pay that program's costs
39 commensurate with that person's ability to pay as determined by
40 Section 11837.4 of the Health and Safety Code.

1 (f) Any person convicted of a second or subsequent violation
2 of subdivision (b), (c), (d), or (e) of Section 655 within seven years
3 of the first conviction of any of those subdivisions or subdivision
4 (f) of Section 655, or any person convicted of a violation of
5 subdivision (b), (c), (d), or (e) of Section 655 within seven years
6 of a separate conviction of subdivision (a) or (b) of Section 192.5
7 of the Penal Code, or a separate conviction of Section 23152 or
8 23153 of the Vehicle Code or Section 191.5 or subdivision (a) of
9 Section 192.5 of the Penal Code, when the separate conviction
10 resulted from the operation of a motor vehicle, shall be punished
11 by a fine of not more than one thousand dollars (\$1,000) or
12 imprisonment in the county jail for not more than one year, or by
13 both that fine and imprisonment. If probation is granted, the court,
14 as a condition of probation, may require the person to do either of
15 the following, if available in the county of the person's residence
16 or employment:

17 (1) Participate, for at least 18 months subsequent to the
18 underlying conviction and in a manner satisfactory to the court,
19 in a program licensed pursuant to Chapter 9 (commencing with
20 Section 11836) of Part 2 of Division 10.5 of the Health and Safety
21 Code, as designated by the court. In order to enable all required
22 persons to participate, each person shall pay the program costs
23 commensurate with the person's ability to pay as determined
24 pursuant to Section 11837.4 of the Health and Safety Code.

25 (2) Participate, for at least 30 months subsequent to the
26 underlying conviction and in a manner satisfactory to the court,
27 in a program licensed pursuant to Chapter 9 (commencing with
28 Section 11836) of Part 2 of Division 10.5 of the Health and Safety
29 Code. A person ordered to treatment pursuant to this paragraph
30 shall apply to the court or to a board of review, as designated by
31 the court, at the conclusion of the program to obtain the court's
32 order of satisfaction. Only upon the granting of that order of
33 satisfaction by the court may the program issue its certificate of
34 successful completion. A failure to obtain an order of satisfaction
35 at the conclusion of the program is a violation of probation. In
36 order to enable all required persons to participate, each person
37 shall pay the program costs commensurate with the person's ability
38 to pay as determined pursuant to Section 11837.4 of the Health
39 and Safety Code. No condition of probation required pursuant to

1 this paragraph is a basis for reducing any other probation
2 requirement.

3 (g) Any person convicted of a violation of subdivision (f) of
4 Section 655 shall be punished by imprisonment in the state prison,
5 or in the county jail for not less than 90 days or more than one
6 year, and by a fine of not less than two hundred fifty dollars (\$250)
7 or more than five thousand dollars (\$5,000). If probation is granted,
8 the court, as a condition of probation, may require the person to
9 participate in, and successfully complete, a program licensed
10 pursuant to Chapter 9 (commencing with Section 11836) of Part
11 2 of Division 10.5 of the Health and Safety Code, if available in
12 the person's county of residence or employment, as designated by
13 the court. In order to enable all required persons to participate,
14 each person shall pay the program costs commensurate with the
15 person's ability to pay as determined pursuant to Section 11837.4
16 of the Health and Safety Code.

17 (h) (1) If any person is convicted of a violation of subdivision
18 (f) of Section 655 within seven years of a separate conviction of
19 a violation of subdivision (b), (c), (d), or (e) of Section 655 and is
20 granted probation, the court shall impose as a condition of
21 probation that the person be confined in the county jail for not less
22 than five days or more than one year and pay a fine of not less than
23 two hundred fifty dollars (\$250) or more than five thousand dollars
24 (\$5,000).

25 (2) If any person is convicted of a violation of subdivision (f)
26 of Section 655 within seven years of a separate conviction of a
27 violation of subdivision (f) of Section 655, of subdivision (a) or
28 (b) of Section 192.5 of the Penal Code, or Section 23152 or 23153
29 of the Vehicle Code or Section 191.5 or subdivision (a) of Section
30 192.5 of the Penal Code, when the separate conviction resulted
31 from the operation of a motor vehicle, and is granted probation,
32 the court shall impose as a condition of probation that the person
33 be confined in the county jail for not less than 90 days or more
34 than one year, and pay a fine of not less than two hundred fifty
35 dollars (\$250) or more than five thousand dollars (\$5,000), and
36 the court, as a condition of probation, may order that the person
37 participate in a manner satisfactory to the court, in a program
38 licensed pursuant to Chapter 9 (commencing with Section 11836)
39 of Part 2 of Division 10.5 of the Health and Safety Code, if
40 available in the county of the person's residence or employment.

1 In order to enable all required persons to participate, each person
2 shall pay the program costs commensurate with the person's ability
3 to pay as determined pursuant to Section 11837.4 of the Health
4 and Safety Code.

5 (i) The court shall not absolve a person who is convicted of a
6 violation of subdivision (f) of Section 655 within seven years of
7 a separate conviction of a violation of subdivision (b), (c), (d), (e),
8 or (f) of Section 655, of subdivision (a) or (b) of Section 192.5 of
9 the Penal Code, or Section 23152 or 23153 of the Vehicle Code
10 or Section 191.5 or subdivision (a) of Section 192.5 of the Penal
11 Code, when the separate conviction resulted from the operation
12 of a motor vehicle, from the minimum time in confinement
13 provided in this section and a fine of at least two hundred fifty
14 dollars (\$250), except as provided in subdivision (h).

15 (j) Except in unusual cases where the interests of justice demand
16 an exception, the court shall not strike a separate conviction of an
17 offense under subdivision (b), (c), (d), (e), or (f) of Section 655 or
18 of subdivision (a) or (b) of Section 192.5 of the Penal Code, or
19 Section 23152 or 23153 of the Vehicle Code or Section 191.5 or
20 subdivision (a) of Section 192.5 of the Penal Code, when the
21 separate conviction resulted from the operation of a motor vehicle,
22 for purposes of sentencing in order to avoid imposing, as part of
23 the sentence or as a term of probation, the minimum time in
24 confinement and the minimum fine, as provided in this section.
25 When a separate conviction is stricken by the court for purposes
26 of sentencing, the court shall specify the reason or reasons for the
27 striking order. On appeal by the people from an order striking a
28 separate conviction, it shall be conclusively presumed that the
29 order was made only for the reasons specified in the order, and
30 the order shall be reversed if there is no substantial basis in the
31 record for any of those reasons.

32 (k) A person who flees the scene of the crime after committing
33 a violation of subdivision (a), (b), or (c) of Section 192.5 of the
34 Penal Code shall be subject to subdivision (c) of Section 20001 of
35 the Vehicle Code.

36 (l) Any person who violates Section 654.3 is guilty of an
37 infraction punishable by a fine of not more than five hundred
38 dollars (\$500) for each separate violation.

39 ~~SEC. 4.~~

40 SEC. 8. Section 266h of the Penal Code is amended to read:

1 266h. (a) Except as provided in subdivision (b), any person
2 who, knowing another person is a prostitute, lives or derives
3 support or maintenance in whole or in part from the earnings or
4 proceeds of the person's prostitution, or from money loaned or
5 advanced to or charged against that person by any keeper or
6 manager or inmate of a house or other place where prostitution is
7 practiced or allowed, or who solicits or receives compensation for
8 soliciting for the person, is guilty of pimping, a felony, and shall
9 be punishable by imprisonment in the state prison for three, four,
10 or six years.

11 (b) Any person who, knowing another person is a prostitute,
12 lives or derives support or maintenance in whole or in part from
13 the earnings or proceeds of the person's prostitution, or from
14 money loaned or advanced to or charged against that person by
15 any keeper or manager or inmate of a house or other place where
16 prostitution is practiced or allowed, or who solicits or receives
17 compensation for soliciting for the person, when the prostitute is
18 a minor, is guilty of pimping a minor, a felony, and shall be
19 punishable as follows:

20 (1) If the person engaged in prostitution is a minor 16 years of
21 age or older, the offense is punishable by imprisonment in the state
22 prison for three, four, or six years.

23 (2) If the person engaged in prostitution is under 16 years of
24 age, the offense is punishable by imprisonment in the state prison
25 for three, six, or eight years.

26 ~~SEC. 5.~~

27 SEC. 9. Section 266i of the Penal Code is amended to read:

28 266i. (a) Except as provided in subdivision (b), any person
29 who does any of the following is guilty of pandering, a felony, and
30 shall be punishable by imprisonment in the state prison for three,
31 four, or six years:

32 (1) Procures another person for the purpose of prostitution.

33 (2) By promises, threats, violence, or by any device or scheme,
34 causes, induces, persuades, or encourages another person to become
35 a prostitute.

36 (3) Procures for another person a place as an inmate in a house
37 of prostitution or as an inmate of any place in which prostitution
38 is encouraged or allowed within this state.

39 (4) By promises, threats, violence, or by any device or scheme,
40 causes, induces, persuades, or encourages an inmate of a house of

1 prostitution, or any other place in which prostitution is encouraged
2 or allowed, to remain therein as an inmate.

3 (5) By fraud or artifice, or by duress of person or goods, or by
4 abuse of any position of confidence or authority, procures another
5 person for the purpose of prostitution, or to enter any place in
6 which prostitution is encouraged or allowed within this state, or
7 to come into this state or leave this state for the purpose of
8 prostitution.

9 (6) Receives or gives, or agrees to receive or give, any money
10 or thing of value for procuring, or attempting to procure, another
11 person for the purpose of prostitution, or to come into this state or
12 leave this state for the purpose of prostitution.

13 (b) Any person who does any of the acts described in subdivision
14 (a) with another person who is a minor is guilty of pandering, a
15 felony, and shall be punishable as follows:

16 (1) If the other person is a minor 16 years of age or older, the
17 offense is punishable by imprisonment in the state prison for three,
18 four, or six years.

19 (2) If the other person is under 16 years of age, the offense is
20 punishable by imprisonment in the state prison for three, six, or
21 eight years.

22 ~~SEC. 6.~~

23 *SEC. 10.* Section 273.6 of the Penal Code is amended to read:

24 273.6. (a) Any intentional and knowing violation of a
25 protective order, as defined in Section 6218 of the Family Code,
26 or of an order issued pursuant to Section 527.6, 527.8, or 527.85
27 of the Code of Civil Procedure, or Section 15657.03 of the Welfare
28 and Institutions Code, is a misdemeanor punishable by a fine of
29 not more than one thousand dollars (\$1,000), or by imprisonment
30 in a county jail for not more than one year, or by both that fine and
31 imprisonment.

32 (b) In the event of a violation of subdivision (a) that results in
33 physical injury, the person shall be punished by a fine of not more
34 than two thousand dollars (\$2,000), or by imprisonment in a county
35 jail for not less than 30 days nor more than one year, or by both
36 that fine and imprisonment. However, if the person is imprisoned
37 in a county jail for at least 48 hours, the court may, in the interest
38 of justice and for reasons stated on the record, reduce or eliminate
39 the 30-day minimum imprisonment required by this subdivision.
40 In determining whether to reduce or eliminate the minimum

1 imprisonment pursuant to this subdivision, the court shall consider
2 the seriousness of the facts before the court, whether there are
3 additional allegations of a violation of the order during the
4 pendency of the case before the court, the probability of future
5 violations, the safety of the victim, and whether the defendant has
6 successfully completed or is making progress with counseling.

7 (c) Subdivisions (a) and (b) shall apply to the following court
8 orders:

9 (1) Any order issued pursuant to Section 6320 or 6389 of the
10 Family Code.

11 (2) An order excluding one party from the family dwelling or
12 from the dwelling of the other.

13 (3) An order enjoining a party from specified behavior that the
14 court determined was necessary to effectuate the order described
15 in subdivision (a).

16 (4) Any order issued by another state that is recognized under
17 Part 5 (commencing with Section 6400) of Division 10 of the
18 Family Code.

19 (d) A subsequent conviction for a violation of an order described
20 in subdivision (a), occurring within seven years of a prior
21 conviction for a violation of an order described in subdivision (a)
22 and involving an act of violence or “a credible threat” of violence,
23 as defined in subdivision (c) of Section 139, is punishable by
24 imprisonment in a county jail not to exceed one year, or in the
25 state prison.

26 (e) In the event of a subsequent conviction for a violation of an
27 order described in subdivision (a) for an act occurring within one
28 year of a prior conviction for a violation of an order described in
29 subdivision (a) that results in physical injury to a victim, the person
30 shall be punished by a fine of not more than two thousand dollars
31 (\$2,000), or by imprisonment in a county jail for not less than six
32 months nor more than one year, by both that fine and
33 imprisonment, or by imprisonment in the state prison. However,
34 if the person is imprisoned in a county jail for at least 30 days, the
35 court may, in the interest of justice and for reasons stated in the
36 record, reduce or eliminate the six-month minimum imprisonment
37 required by this subdivision. In determining whether to reduce or
38 eliminate the minimum imprisonment pursuant to this subdivision,
39 the court shall consider the seriousness of the facts before the court,
40 whether there are additional allegations of a violation of the order

1 during the pendency of the case before the court, the probability
2 of future violations, the safety of the victim, and whether the
3 defendant has successfully completed or is making progress with
4 counseling.

5 (f) The prosecuting agency of each county shall have the primary
6 responsibility for the enforcement of orders described in
7 subdivisions (a), (b), (d), and (e).

8 (g) (1) Every person who owns, possesses, purchases, or
9 receives a firearm knowing he or she is prohibited from doing so
10 by the provisions of a protective order as defined in Section 136.2
11 of this code, Section 6218 of the Family Code, or Section 527.6,
12 527.8, or 527.85 of the Code of Civil Procedure, or Section
13 15657.03 of the Welfare and Institutions Code, shall be punished
14 under subdivision (g) of Section 12021.

15 (2) Every person subject to a protective order described in
16 paragraph (1) shall not be prosecuted under this section for owning,
17 possessing, purchasing, or receiving a firearm to the extent that
18 firearm is granted an exemption pursuant to subdivision (f) of
19 Section 527.9 of the Code of Civil Procedure, or subdivision (h)
20 of Section 6389 of the Family Code.

21 (h) If probation is granted upon conviction of a violation of
22 subdivision (a), (b), (c), (d), or (e), the court shall impose probation
23 consistent with Section 1203.097, and the conditions of probation
24 may include, in lieu of a fine, one or both of the following
25 requirements:

26 (1) That the defendant make payments to a battered women's
27 shelter or to a shelter for abused elder persons or dependent adults,
28 up to a maximum of five thousand dollars (\$5,000), pursuant to
29 Section 1203.097.

30 (2) That the defendant reimburse the victim for reasonable costs
31 of counseling and other reasonable expenses that the court finds
32 are the direct result of the defendant's offense.

33 (i) For any order to pay a fine, make payments to a battered
34 women's shelter, or pay restitution as a condition of probation
35 under subdivision (e), the court shall make a determination of the
36 defendant's ability to pay. In no event shall any order to make
37 payments to a battered women's shelter be made if it would impair
38 the ability of the defendant to pay direct restitution to the victim
39 or court-ordered child support. Where the injury to a married person
40 is caused in whole or in part by the criminal acts of his or her

1 spouse in violation of this section, the community property may
2 not be used to discharge the liability of the offending spouse for
3 restitution to the injured spouse, required by Section 1203.04, as
4 operative on or before August 2, 1995, or Section 1202.4, or to a
5 shelter for costs with regard to the injured spouse and dependents,
6 required by this section, until all separate property of the offending
7 spouse is exhausted.

8 ~~SEC. 7.~~

9 *SEC. 11.* Section 290.06 of the Penal Code is amended to read:

10 290.06. Effective on or before July 1, 2008, the SARATSO,
11 as set forth in Section 290.04, shall be administered as follows:

12 (a) (1) The Department of Corrections and Rehabilitation shall
13 assess every eligible person who is incarcerated in state prison.
14 Whenever possible, the assessment shall take place at least four
15 months, but no sooner than 10 months, prior to release from
16 incarceration.

17 (2) The department shall assess every eligible person who is on
18 parole if the person was not assessed prior to release from state
19 prison. Whenever possible, the assessment shall take place at least
20 four months, but no sooner than 10 months, prior to termination
21 of parole. The department shall record in a database the risk
22 assessment scores of persons assessed pursuant to this paragraph
23 and paragraph (1), and any risk assessment score that was
24 submitted to the department by a probation officer pursuant to
25 Section 1203.

26 (3) The State Department of Mental Health shall assess every
27 eligible person who is committed to that department. Whenever
28 possible, the assessment shall take place at least four months, but
29 no sooner than 10 months, prior to release from commitment. The
30 State Department of Mental Health shall record in a database the
31 risk assessment scores of persons assessed pursuant to this
32 paragraph and any risk assessment score that was submitted to the
33 department by a probation officer pursuant to Section 1203.

34 (4) Commencing January 1, 2010, the Department of Corrections
35 and Rehabilitation and the State Department of Mental Health
36 shall send the scores obtained in accordance with paragraphs (2)
37 and (3) respectively, to the Department of Justice Sex Offender
38 Tracking Program not later than 30 days after the date of the
39 assessment. The risk assessment score of an offender shall be made
40 part of his or her file maintained by the Department of Justice Sex

1 Offender Tracking Program as soon as possible without financial
2 impact, but no later than January 1, 2012.

3 (5) Each probation department shall, prior to sentencing, assess
4 every eligible person as defined in subdivision (d), whether or not
5 a report is prepared pursuant to Section 1203.

6 (6) Each probation department shall assess every eligible person
7 under its supervision who was not assessed pursuant to paragraph
8 (5). The assessment shall take place prior to the termination of
9 probation, but no later than January 1, 2010.

10 (b) Eligible persons not assessed pursuant to subdivision (a)
11 may be assessed as follows:

12 (1) Upon request of the law enforcement agency in the
13 jurisdiction in which the person is registered pursuant to Sections
14 290 to 290.023, inclusive, the person shall be assessed. The law
15 enforcement agency may enter into a memorandum of
16 understanding with a probation department to perform the
17 assessment. In the alternative, the law enforcement agency may
18 arrange to have personnel trained to perform the risk assessment
19 in accordance with subdivision (d) of Section 290.05.

20 (2) Eligible persons not assessed pursuant to subdivision (a)
21 may request that a risk assessment be performed. A request form
22 shall be available at registering law enforcement agencies. The
23 person requesting the assessment shall pay a fee for the assessment
24 that shall be sufficient to cover the cost of the assessment. The risk
25 assessment so requested shall be performed either by the probation
26 department, if a memorandum of understanding is established
27 between the law enforcement agency and the probation department,
28 or by personnel who have been trained to perform risk assessment
29 in accordance with subdivision (d) of Section 290.05.

30 (c) On or before January 1, 2008, the SARATSO Review
31 Committee shall research the appropriateness and feasibility of
32 providing a means by which an eligible person subject to
33 assessment may, at his or her own expense, be assessed with the
34 SARATSO by a governmental entity prior to his or her scheduled
35 assessment. If the committee unanimously agrees that such a
36 process is appropriate and feasible, it shall advise the Governor
37 and the Legislature of the selected tool, and it shall post its decision
38 on the Department of Corrections and Rehabilitation's Internet
39 Web site. Sixty days after the decision is posted, the established
40 process shall become effective.

(d) For purposes of this section, “eligible person” means a person who was convicted of an offense that requires him or her to register as a sex offender pursuant to Section 290 and who is eligible for assessment, pursuant to the official Coding Rules designated for use with the risk assessment instrument by the author of any risk assessment instrument (SARATSO) selected by the SARATSO Review Committee.

(e) Persons authorized to perform risk assessments pursuant to this section, Section 1203, and Section 706 of the Welfare and Institutions Code shall be immune from liability for good faith conduct under this act.

~~SEC. 8.~~

SEC. 12. Section 786 of the Penal Code is amended to read:

786. (a) When property taken in one jurisdictional territory by burglary, carjacking, robbery, theft, or embezzlement has been brought into another, or when property is received in one jurisdictional territory with the knowledge that it has been stolen or embezzled and the property was stolen or embezzled in another jurisdictional territory, the jurisdiction of the offense is in any competent court within either jurisdictional territory, or any contiguous jurisdictional territory if the arrest is made within the contiguous territory, the prosecution secures on the record the defendant’s knowing, voluntary, and intelligent waiver of the right of vicinage, and the defendant is charged with one or more property crimes in the arresting territory.

(b) (1) The jurisdiction of a criminal action for unauthorized use, retention, or transfer of personal identifying information, as defined in subdivision (b) of Section 530.55, shall also include the county where the theft of the personal identifying information occurred, the county in which the victim resided at the time the offense was committed, or the county where the information was used for an illegal purpose. If multiple offenses of unauthorized use of personal identifying information, either all involving the same defendant or defendants and the same personal identifying information belonging to the one person, or all involving the same defendant or defendants and the same scheme or substantially similar activity, occur in multiple jurisdictions, then any of those jurisdictions is a proper jurisdiction for all of the offenses. Jurisdiction also extends to all associated offenses connected

1 together in their commission to the underlying identity theft offense
2 or identity theft offenses.

3 (2) When charges alleging multiple offenses of unauthorized
4 use of personal identifying information occurring in multiple
5 territorial jurisdictions are filed in one county pursuant to this
6 section, the court shall hold a hearing to consider whether the
7 matter should proceed in the county of filing, or whether one or
8 more counts should be severed. The district attorney filing the
9 complaint shall present evidence to the court that the district
10 attorney in each county where any of the charges could have been
11 filed has agreed that the matter should proceed in the county of
12 filing. In determining whether all counts in the complaint should
13 be joined in one county for prosecution, the court shall consider
14 the location and complexity of the likely evidence, where the
15 majority of the offenses occurred, whether or not the offenses
16 involved substantially similar activity or the same scheme, the
17 rights of the defendant and the people, and the convenience of, or
18 hardship to, the victim and witnesses.

19 (3) When an action for unauthorized use, retention, or transfer
20 of personal identifying information is filed in the county in which
21 the victim resided at the time the offense was committed, and no
22 other basis for the jurisdiction applies, the court, upon its own
23 motion or the motion of the defendant, shall hold a hearing to
24 determine whether the county of the victim's residence is the proper
25 venue for trial of the case. In ruling on the matter, the court shall
26 consider the rights of the parties, the access of the parties to
27 evidence, the convenience to witnesses, and the interests of justice.

28 (c) This section shall not be interpreted to alter victims' rights
29 under Section 530.6.

30 ~~SEC. 9.~~

31 *SEC. 13.* Section 1203e of the Penal Code is amended to read:

32 1203e. (a) Commencing June 1, 2010, the probation
33 department shall compile a Facts of Offense Sheet for every person
34 ~~convicted of an offense that requires him or her to register as a sex~~
35 ~~offender pursuant to Section 290~~ who is referred to the department
36 pursuant to Section 1203, *and who has been charged in the current*
37 *case with an offense requiring registration pursuant to the Sex*
38 *Offender Registration Act.* The Facts of Offense Sheet shall contain
39 the following information concerning the offender: name; CII
40 number; criminal history, including all arrests and convictions for

1 any registerable sex offenses or any violent offense; circumstances
2 of the offense for which registration is required, including, but not
3 limited to, weapons used and victim pattern; and results of the
4 State-Authorized Risk Assessment Tool for Sex Offenders
5 (SARATSO), as set forth in Section 290.04, if required. The Facts
6 of Offense Sheet score on the SARATSO tool used to assess the
7 offender shall be included in the probation officer's report.

8 (b) The defendant may move the court to correct the Facts of
9 Offense Sheet SARATSO score. Any corrections to that sheet the
10 score shall be made consistent with procedures set forth in Section
11 1204.

12 (c) The probation officer shall send a copy of the Facts of
13 Offense Sheet to the Department of Justice High Risk Sex Offender
14 Program within 30 days of the person's sex offense conviction,
15 and it shall be made part of the registered sex offender's file
16 maintained by the Sex Offender Tracking Program. The Facts of
17 Offense Sheet shall thereafter be made available to law enforcement
18 by the Department of Justice, which shall post it with the offender's
19 record on the Department of Justice Internet Web site maintained
20 pursuant to Section 290.46, and shall be accessible only to law
21 enforcement.

22 (d) If the registered sex offender is sentenced to a period of
23 incarceration, at either the state prison or a county jail, the Facts
24 of Offense Sheet shall be sent by the Department of Corrections
25 and Rehabilitation or the county sheriff to the registering law
26 enforcement agency in the jurisdiction where the registered sex
27 offender will be paroled or will live on release, within three days
28 of the person's release. If the registered sex offender is committed
29 to the Department of Mental Health, the Facts of Offense Sheet
30 shall be sent by the Department of Mental Health to the registering
31 law enforcement agency in the jurisdiction where the person will
32 live on release, within three days of release.

33 ~~SEC. 10.~~

34 *SEC. 14.* Chapter 3 (commencing with Section 1228) of Title
35 8 of Part 2 of the Penal Code, as added by Section 36 of Chapter
36 28 of the 3rd Extraordinary Session of the Statutes of 2009, is
37 repealed.

38 ~~SEC. 11.~~

39 *SEC. 15.* Section 1233.1 of the Penal Code, as added by Section
40 2 of Chapter 608 of the Statutes of 2009, is amended to read:

1 1233.1. After the conclusion of each calendar year following
2 the enactment of this section, the Director of Finance, in
3 consultation with the Department of Corrections and Rehabilitation,
4 the Joint Legislative Budget Committee, the Chief Probation
5 Officers of California, and the Administrative Office of the Courts,
6 shall calculate the following for that calendar year:

7 (a) The cost to the state to incarcerate in prison and supervise
8 on parole a probationer sent to prison. This calculation shall take
9 into consideration factors, including, but not limited to, the average
10 length of stay in prison and on parole for probationers, as well as
11 the associated parole revocation rates, and revocation costs.

12 (b) The statewide probation failure rate. The statewide probation
13 failure rate shall be calculated as the total number of adult felony
14 probationers statewide sent to prison in the previous year as a
15 percentage of the average statewide adult felony probation
16 population for that year.

17 (c) A probation failure rate for each county. Each county's
18 probation failure rate shall be calculated as the number of adult
19 felony probationers sent to prison from that county in the previous
20 year as a percentage of the county's average adult felony probation
21 population for that year.

22 (d) An estimate of the number of adult felony probationers each
23 county successfully prevented from being sent to prison. For each
24 county, this estimate shall be calculated based on the reduction in
25 the county's probation failure rate as calculated annually pursuant
26 to subdivision (c) of this section and the county's baseline
27 probation failure rate as calculated pursuant to Section 1233. In
28 making this estimate, the Director of Finance, in consultation with
29 the Department of Corrections and Rehabilitation, the Joint
30 Legislative Budget Committee, the Chief Probation Officers of
31 California, and the Administrative Office of the Courts, shall adjust
32 the calculations to account for changes in each county's adult
33 felony probation caseload in the most recent completed calendar
34 year as compared to the county's adult felony probation population
35 during the period 2006 to 2008, inclusive.

36 (e) In calculating probation failure rates for the state and
37 individual counties, the number of adult felony probationers sent
38 to prison shall include those adult felony probationers sent to state
39 prison for a revocation of probation, as well as adult felony
40 probationers sent to state prison for a conviction of a new felony

1 offense. The calculation shall also include adult felony probationers
2 who are sent to prison for conviction of a new crime and who
3 simultaneously have their probation terms terminated.

4 ~~SEC. 12.~~

5 *SEC. 16.* Section 1328d of the Penal Code is amended to read:

6 1328d. Notwithstanding Section 1328, a subpoena may be
7 delivered by mail or messenger. Service shall be effected when
8 the witness acknowledges receipt of the subpoena to the sender,
9 by telephone, by mail, ~~by any form of electronic communication,~~
10 ~~including the Internet over the Internet by e-mail or by completion~~
11 ~~of the sender's online form~~, or in person, and identifies himself or
12 herself by reference to his or her date of birth and his or her driver's
13 license number or Department of Motor Vehicles identification
14 card number. The sender shall make a written notation of the
15 identifying information obtained during any acknowledgment by
16 telephone or in person. *The sender shall retain a copy of any*
17 *acknowledgment received over the Internet until the court date for*
18 *which the subpoena was issued or until any further date as*
19 *specified by the court.* A subpoena issued and acknowledged
20 pursuant to this section shall have the same force and effect as a
21 subpoena personally served. Failure to comply with a subpoena
22 issued and acknowledged pursuant to this section may be punished
23 as a contempt and the subpoena may so state; provided, that a
24 warrant of arrest or a body attachment may not be issued based
25 upon a failure to appear after being subpoenaed pursuant to this
26 section.

27 A party requesting a continuance based upon the failure of a
28 witness to appear in court at the time and place required for his or
29 her appearance or testimony pursuant to a subpoena, shall prove
30 to the court that the party has complied with the provisions of this
31 section. Such a continuance shall only be granted for a period of
32 time which would allow personal service of the subpoena and in
33 no event longer than that allowed by law, including the
34 requirements of Sections 861 and 1382.

35 ~~SEC. 13.~~

36 *SEC. 17.* Section 1417.6 of the Penal Code is amended to read:

37 1417.6. (a) The provisions of Section 1417.5 shall not apply
38 to any dangerous or deadly weapons, narcotic or poisonous drugs,
39 explosives, or any property of any kind or character whatsoever
40 the possession of which is prohibited by law and that was used by

1 a defendant in the commission of the crime of which the defendant
2 was convicted, or with which the defendant was armed or that the
3 defendant had upon his or her person at the time of the defendant's
4 arrest.

5 Any of this property introduced or filed as an exhibit shall be,
6 by order of the trial court, destroyed or otherwise disposed of under
7 the conditions provided in the order no sooner than 60 days
8 following the final determination of the criminal action or
9 proceeding.

10 (b) (1) Every person who knowingly has in his or her possession
11 any tool or device that is seized and of a type used in the
12 commission of a violation of Section 10801, 10802, or 10803 of
13 the Vehicle Code, shall be subject to having the tool or device
14 intended for the above purpose deemed a nuisance as provided in
15 paragraph (2).

16 (2) An evidentiary hearing shall be held only upon conviction
17 of the defendant for a violation of Section 10801, 10802, or 10803
18 of the Vehicle Code and after 15 days' notice is given to the
19 defendant of the state's intent to declare as a nuisance any property
20 that is described in paragraph (1). All relevant evidence shall be
21 admissible at the hearing and the state shall prove by a
22 preponderance of the evidence that the property seized is of a type
23 used in facilitating the commission of the crime of which the
24 defendant was convicted.

25 (3) If a person purports to be the lawful owner of any tool or
26 device the state seeks to be declared a nuisance, the person shall
27 show proof by a preponderance of the evidence at the hearing
28 pursuant to paragraph (2), that he or she owns the tool or device,
29 and the illegal use of the tool or device was without his or her
30 knowledge or consent.

31 (4) Following a determination that the property shall be declared
32 a nuisance, the property shall be disposed of as provided in
33 paragraph (2) or (3) of subdivision (c) of Section 1417.5.

34 ~~SEC. 14.~~

35 *SEC. 18.* Section 12021 of the Penal Code is amended to read:

36 12021. (a) (1) Any person who has been convicted of a felony
37 under the laws of the United States, the State of California, or any
38 other state, government, or country or of an offense enumerated
39 in subdivision (a), (b), or (d) of Section 12001.6, or who is addicted
40 to the use of any narcotic drug, and who owns, purchases, receives,

1 or has in his or her possession or under his or her custody or control
2 any firearm is guilty of a felony.

3 (2) Any person who has two or more convictions for violating
4 paragraph (2) of subdivision (a) of Section 417 and who owns,
5 purchases, receives, or has in his or her possession or under his or
6 her custody or control any firearm is guilty of a felony.

7 (b) Notwithstanding subdivision (a), any person who has been
8 convicted of a felony or of an offense enumerated in Section
9 12001.6, when that conviction results from certification by the
10 juvenile court for prosecution as an adult in an adult court under
11 Section 707 of the Welfare and Institutions Code, and who owns
12 or has in his or her possession or under his or her custody or control
13 any firearm is guilty of a felony.

14 (c) (1) Except as provided in subdivision (a) or paragraph (2)
15 of this subdivision, any person who has been convicted of a
16 misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140,
17 subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28,
18 240, 241, 242, 243, 243.4, 244.5, 245, 245.5, 246.3, 247, 273.5,
19 273.6, 417, 417.6, 422, 626.9, 646.9, 12023, or 12024, subdivision
20 (b) or (d) of Section 12034, Section 12040, subdivision (b) of
21 Section 12072, subdivision (a) of former Section 12100, Section
22 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the
23 Welfare and Institutions Code, any firearm-related offense pursuant
24 to Sections 871.5 and 1001.5 of the Welfare and Institutions Code,
25 or of the conduct punished in paragraph (3) of subdivision (g) of
26 Section 12072, and who, within 10 years of the conviction, owns,
27 purchases, receives, or has in his or her possession or under his or
28 her custody or control, any firearm is guilty of a public offense,
29 which shall be punishable by imprisonment in a county jail not
30 exceeding one year or in the state prison, by a fine not exceeding
31 one thousand dollars (\$1,000), or by both that imprisonment and
32 fine. The court, on forms prescribed by the Department of Justice,
33 shall notify the department of persons subject to this subdivision.
34 However, the prohibition in this paragraph may be reduced,
35 eliminated, or conditioned as provided in paragraph (2) or (3).

36 (2) Any person employed as a peace officer described in Section
37 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose employment
38 or livelihood is dependent on the ability to legally possess a
39 firearm, who is subject to the prohibition imposed by this
40 subdivision because of a conviction under Section 273.5, 273.6,

1 or 646.9, may petition the court only once for relief from this
2 prohibition. The petition shall be filed with the court in which the
3 petitioner was sentenced. If possible, the matter shall be heard
4 before the same judge who sentenced the petitioner. Upon filing
5 the petition, the clerk of the court shall set the hearing date and
6 shall notify the petitioner and the prosecuting attorney of the date
7 of the hearing. Upon making each of the following findings, the
8 court may reduce or eliminate the prohibition, impose conditions
9 on reduction or elimination of the prohibition, or otherwise grant
10 relief from the prohibition as the court deems appropriate:

11 (A) Finds by a preponderance of the evidence that the petitioner
12 is likely to use a firearm in a safe and lawful manner.

13 (B) Finds that the petitioner is not within a prohibited class as
14 specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1,
15 and the court is not presented with any credible evidence that the
16 petitioner is a person described in Section 8100 or 8103 of the
17 Welfare and Institutions Code.

18 (C) (i) Finds that the petitioner does not have a previous
19 conviction under this subdivision no matter when the prior
20 conviction occurred.

21 (ii) In making its decision, the court shall consider the
22 petitioner's continued employment, the interest of justice, any
23 relevant evidence, and the totality of the circumstances. The court
24 shall require, as a condition of granting relief from the prohibition
25 under this section, that the petitioner agree to participate in
26 counseling as deemed appropriate by the court. Relief from the
27 prohibition shall not relieve any other person or entity from any
28 liability that might otherwise be imposed. It is the intent of the
29 Legislature that courts exercise broad discretion in fashioning
30 appropriate relief under this paragraph in cases in which relief is
31 warranted. However, nothing in this paragraph shall be construed
32 to require courts to grant relief to any particular petitioner. It is
33 the intent of the Legislature to permit persons who were convicted
34 of an offense specified in Section 273.5, 273.6, or 646.9 to seek
35 relief from the prohibition imposed by this subdivision.

36 (3) Any person who is subject to the prohibition imposed by
37 this subdivision because of a conviction of an offense prior to that
38 offense being added to paragraph (1) may petition the court only
39 once for relief from this prohibition. The petition shall be filed
40 with the court in which the petitioner was sentenced. If possible,

1 the matter shall be heard before the same judge that sentenced the
2 petitioner. Upon filing the petition, the clerk of the court shall set
3 the hearing date and notify the petitioner and the prosecuting
4 attorney of the date of the hearing. Upon making each of the
5 following findings, the court may reduce or eliminate the
6 prohibition, impose conditions on reduction or elimination of the
7 prohibition, or otherwise grant relief from the prohibition as the
8 court deems appropriate:

9 (A) Finds by a preponderance of the evidence that the petitioner
10 is likely to use a firearm in a safe and lawful manner.

11 (B) Finds that the petitioner is not within a prohibited class as
12 specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1,
13 and the court is not presented with any credible evidence that the
14 petitioner is a person described in Section 8100 or 8103 of the
15 Welfare and Institutions Code.

16 (C) (i) Finds that the petitioner does not have a previous
17 conviction under this subdivision, no matter when the prior
18 conviction occurred.

19 (ii) In making its decision, the court may consider the interest
20 of justice, any relevant evidence, and the totality of the
21 circumstances. It is the intent of the Legislature that courts exercise
22 broad discretion in fashioning appropriate relief under this
23 paragraph in cases in which relief is warranted. However, nothing
24 in this paragraph shall be construed to require courts to grant relief
25 to any particular petitioner.

26 (4) Law enforcement officials who enforce the prohibition
27 specified in this subdivision against a person who has been granted
28 relief pursuant to paragraph (2) or (3) shall be immune from any
29 liability for false arrest arising from the enforcement of this
30 subdivision unless the person has in his or her possession a certified
31 copy of the court order that granted the person relief from the
32 prohibition. This immunity from liability shall not relieve any
33 person or entity from any other liability that might otherwise be
34 imposed.

35 (d) (1) Any person who, as an express condition of probation,
36 is prohibited or restricted from owning, possessing, controlling,
37 receiving, or purchasing a firearm and who owns, purchases,
38 receives, or has in his or her possession or under his or her custody
39 or control, any firearm but who is not subject to subdivision (a) or
40 (c) is guilty of a public offense, which shall be punishable by

1 imprisonment in a county jail not exceeding one year or in the
2 state prison, by a fine not exceeding one thousand dollars (\$1,000),
3 or by both that imprisonment and fine. The court, on forms
4 provided by the Department of Justice, shall notify the department
5 of persons subject to this subdivision. The notice shall include a
6 copy of the order of probation and a copy of any minute order or
7 abstract reflecting the order and conditions of probation.

8 (2) For any person who is subject to subdivision (a), (b), or (c),
9 the court shall, at the time judgment is imposed, provide on a form
10 supplied by the Department of Justice, a notice to the defendant
11 prohibited by this section from owning, purchasing, receiving,
12 possessing or having under his or her custody or control, any
13 firearm. The notice shall inform the defendant of the prohibition
14 regarding firearms and include a form to facilitate the transfer of
15 firearms. Failure to provide the notice shall not be a defense to a
16 violation of this section.

17 (e) Any person who (1) is alleged to have committed an offense
18 listed in subdivision (b) of Section 707 of the Welfare and
19 Institutions Code, an offense described in subdivision (b) of Section
20 1203.073, any offense enumerated in paragraph (1) of subdivision
21 (c), or any offense described in subdivision (a) of Section 12025,
22 subdivision (a) of Section 12031, or subdivision (a) of Section
23 12034, and (2) is subsequently adjudged a ward of the juvenile
24 court within the meaning of Section 602 of the Welfare and
25 Institutions Code because the person committed an offense listed
26 in subdivision (b) of Section 707 of the Welfare and Institutions
27 Code, an offense described in subdivision (b) of Section 1203.073,
28 any offense enumerated in paragraph (1) of subdivision (c), or any
29 offense described in subdivision (a) of Section 12025, subdivision
30 (a) of Section 12031, or subdivision (a) of Section 12034, shall
31 not own, or have in his or her possession or under his or her
32 custody or control, any firearm until the age of 30 years. A
33 violation of this subdivision shall be punishable by imprisonment
34 in a county jail not exceeding one year or in the state prison, by a
35 fine not exceeding one thousand dollars (\$1,000), or by both that
36 imprisonment and fine. The juvenile court, on forms prescribed
37 by the Department of Justice, shall notify the department of persons
38 subject to this subdivision. Notwithstanding any other law, the
39 forms required to be submitted to the department pursuant to this

1 subdivision may be used to determine eligibility to acquire a
2 firearm.

3 (f) Subdivision (a) shall not apply to a person who has been
4 convicted of a felony under the laws of the United States unless
5 either of the following criteria is satisfied:

6 (1) Conviction of a like offense under California law can only
7 result in imposition of felony punishment.

8 (2) The defendant was sentenced to a federal correctional facility
9 for more than 30 days, or received a fine of more than one thousand
10 dollars (\$1,000), or received both punishments.

11 (g) (1) Every person who purchases or receives, or attempts to
12 purchase or receive, a firearm knowing that he or she is prohibited
13 from doing so by a temporary restraining order or injunction issued
14 pursuant to Section 527.6, 527.8, or 527.85 of the Code of Civil
15 Procedure, a protective order as defined in Section 6218 of the
16 Family Code, a protective order issued pursuant to Section 136.2
17 or 646.91 of this code, or a protective order issued pursuant to
18 Section 15657.03 of the Welfare and Institutions Code, is guilty
19 of a public offense, which shall be punishable by imprisonment
20 in a county jail not exceeding one year or in the state prison, by a
21 fine not exceeding one thousand dollars (\$1,000), or by both that
22 imprisonment and fine.

23 (2) Every person who owns or possesses a firearm knowing that
24 he or she is prohibited from doing so by a temporary restraining
25 order or injunction issued pursuant to Section 527.6, 527.8, or
26 527.85 of the Code of Civil Procedure, a protective order as defined
27 in Section 6218 of the Family Code, a protective order issued
28 pursuant to Section 136.2 or 646.91 of this code, or a protective
29 order issued pursuant to Section 15657.03 of the Welfare and
30 Institutions Code, is guilty of a public offense, which shall be
31 punishable by imprisonment in a county jail not exceeding one
32 year, by a fine not exceeding one thousand dollars (\$1,000), or by
33 both that imprisonment and fine.

34 (3) The Judicial Council shall provide notice on all protective
35 orders that the respondent is prohibited from owning, possessing,
36 purchasing, receiving, or attempting to purchase or receive a
37 firearm while the protective order is in effect. The order shall also
38 state that the firearm shall be relinquished to the local law
39 enforcement agency for that jurisdiction or sold to a licensed gun
40 dealer, and that proof of surrender or sale shall be filed within a

1 specified time of receipt of the order. The order shall state the
2 penalties for a violation of the prohibition. The order shall also
3 state on its face the expiration date for relinquishment.

4 (4) If probation is granted upon conviction of a violation of this
5 subdivision, the court shall impose probation consistent with
6 Section 1203.097.

7 (h) (1) A violation of subdivision (a), (b), (c), (d), or (e) is
8 justifiable where all of the following conditions are met:

9 (A) The person found the firearm or took the firearm from a
10 person who was committing a crime against him or her.

11 (B) The person possessed the firearm no longer than was
12 necessary to deliver or transport the firearm to a law enforcement
13 agency for that agency's disposition according to law.

14 (C) If the firearm was transported to a law enforcement agency,
15 it was transported in accordance with paragraph (18) of subdivision
16 (a) of Section 12026.2.

17 (D) If the firearm is being transported to a law enforcement
18 agency, the person transporting the firearm has given prior notice
19 to the law enforcement agency that he or she is transporting the
20 firearm to the law enforcement agency for disposition according
21 to law.

22 (2) Upon the trial for violating subdivision (a), (b), (c), (d), or
23 (e), the trier of fact shall determine whether the defendant was
24 acting within the provisions of the exemption created by this
25 subdivision.

26 (3) The defendant has the burden of proving by a preponderance
27 of the evidence that he or she comes within the provisions of the
28 exemption created by this subdivision.

29 (i) Subject to available funding, the Attorney General, working
30 with the Judicial Council, the California Alliance Against Domestic
31 Violence, prosecutors, and law enforcement, probation, and parole
32 officers, shall develop a protocol for the implementation of the
33 provisions of this section. The protocol shall be designed to
34 facilitate the enforcement of restrictions on firearm ownership,
35 including provisions for giving notice to defendants who are
36 restricted, provisions for informing those defendants of the
37 procedures by which defendants shall dispose of firearms when
38 required to do so, provisions explaining how defendants shall
39 provide proof of the lawful disposition of firearms, and provisions
40 explaining how defendants may obtain possession of seized

1 firearms when legally permitted to do so pursuant to this section
2 or any other provision of law. The protocol shall be completed on
3 or before January 1, 2005.

4 ~~SEC. 15.~~

5 *SEC. 19.* Section 13821 of the Penal Code is amended to read:

6 13821. (a) Of the amount deposited in the Local Safety and
7 Protection Account in the Transportation Fund authorized by
8 Section 10752.2 of the Revenue and Taxation Code, the Controller
9 shall allocate 12.68 percent in the 2008–09 fiscal year and 11.42
10 percent in the 2009–10 fiscal year, and each fiscal year thereafter,
11 to the California Emergency Management Agency. The Controller
12 shall allocate these funds on a quarterly basis beginning April 1,
13 2009.

14 (b) These funds shall be allocated by the California Emergency
15 Management Agency according to the agency's existing
16 programmatic guidelines and consistent with the programs
17 approved in the Budget Act of 2008. Of the amount allocated
18 pursuant to subdivision (a), the California Emergency Management
19 Agency shall distribute these funds according to the following
20 percentages:

21 (1) The California Multi-Jurisdictional Methamphetamine
22 Enforcement Teams shall receive 33.95 percent in the 2008–09
23 fiscal year and each fiscal year thereafter.

24 (2) The Multi-Agency Gang Enforcement Consortium shall
25 receive 0.15 percent in the 2008–09 fiscal year, and each fiscal
26 year thereafter.

27 (3) The CALGANG program administered by the Department
28 of Justice shall receive 0.47 percent in the 2008–09 fiscal year,
29 and each fiscal year thereafter.

30 (4) The Evidentiary Medical Training Program shall receive
31 1.02 percent in the 2008–09 fiscal year and each fiscal year
32 thereafter.

33 (5) The Public Prosecutors and Public Defenders Legal Training
34 program shall receive 0.01 percent in the 2008–09 fiscal year and
35 each fiscal year thereafter.

36 (6) The Sexual Assault Felony Enforcement Teams, authorized
37 by Section 13887, shall receive 8.93 percent in the 2008–09 fiscal
38 year and each fiscal year thereafter.

(7) The Vertical Prosecution Block Grant Program shall receive 25.35 percent in the 2008–09 fiscal year and each fiscal year thereafter.

(8) The High Technology Theft Apprehension and Prosecution Program, authorized by Section 13848.2, shall receive 20.84 percent in the 2008–09 fiscal year, and each fiscal year thereafter.

(9) The Gang Violence Suppression Program authorized by Section 13826.1, shall receive 2.8 percent in the 2008–09 fiscal year and each fiscal year thereafter.

(10) The Central Valley and Central Coast Rural Crime Prevention Programs, authorized by Sections 14170 and 14180, shall receive 6.49 percent in the 2008–09 fiscal year and each fiscal year thereafter.

(c) Beginning in the 2009–10 fiscal year and each fiscal year thereafter, the California Emergency Management Agency may retain up to 3 percent of the funds allocated in subdivision (a) for program administrative costs.

~~SEC. 16.~~

SEC. 20. Section 13885 of the Penal Code is amended to read:

13885. The Legislature hereby finds that a substantial and disproportionate amount of sexual offenses are committed against the people of California by a relatively small number of multiple and repeat sex offenders. In enacting this chapter, the Legislature intends to support efforts of the criminal justice community through a focused effort by law enforcement and prosecuting agencies to identify, locate, apprehend, and prosecute sex offenders.

~~SEC. 17.~~

SEC. 21. Section 13885.1 of the Penal Code is amended to read:

13885.1. The Attorney General shall maintain, upon appropriation of funds by the Legislature, a statewide Sexual Predator Apprehension Team force within the California Bureau of Investigation. The Sexual Predator Apprehension Team force shall be comprised of California Bureau of Investigation special agent teams throughout California. The teams shall focus on repeat sex offenders, and perform the following activities:

(a) Coordinate state and local investigative resources to apprehend high risk sex offenders and persons required to register under Section 290 who violate the law or conditions of probation or parole.

1 (b) Target and monitor chronic repeat violent sex offenders
2 before the commission of additional sexual offenses.

3 (c) Develop profiles in unsolved sexual assault cases.

4 ~~SEC. 18.~~

5 *SEC. 22.* Section 13885.2 of the Penal Code is amended to
6 read:

7 13885.2. The Attorney General, subject to the availability of
8 funds, shall establish in the Department of Justice the High Risk
9 Sex Offender Program, which is hereby created, which shall receive
10 the Facts of Offense Sheets, pursuant to Section 1203e. The
11 program shall use the scores of sex offenders reported on the Facts
12 of Offense Sheets for the purpose of identifying, assessing,
13 monitoring, and containing those sex offenders at a high risk of
14 reoffending. This shall be a statewide program.

15 It is the intent of the Legislature that this statewide program shall
16 not affect the operation of the Serious Habitual Offender Program
17 authorized by Chapter 10 (commencing with Section 13890)
18 involving the Counties of San Francisco, San Mateo, Santa Clara,
19 Santa Cruz, Alameda, Contra Costa, Napa, Sonoma, Solano, and
20 Marin which shall become inoperative on July 1, 1994.

21 ~~SEC. 19.~~

22 *SEC. 23.* Section 13885.4 of the Penal Code is amended to
23 read:

24 13885.4. As used in this chapter, “high risk sex offenders”
25 means those persons who are required to register as sex offenders
26 pursuant to the Sex Offender Registration Act and who have been
27 assessed with a score indicating a “high risk” on the SARATSO
28 identified for that person’s specific population as set forth in
29 Section 290.04, or who are identified as being at a high risk of
30 reoffending by the Department of Justice, based on the person’s
31 SARATSO score when considered in combination with other,
32 empirically based risk factors.

33 ~~SEC. 20.~~

34 *SEC. 24.* Section 13885.6 of the Penal Code is amended to
35 read:

36 13885.6. The Department of Justice shall establish and maintain
37 a comprehensive file of existing information maintained by law
38 enforcement agencies, probation departments, the Department of
39 Corrections and Rehabilitation, the State Department of Mental
40 Health, the Department of Motor Vehicles, and the Department of

1 Justice. The Department of Justice may request the Department
2 of Corrections and Rehabilitation, the State Department of Mental
3 Health, the Department of Motor Vehicles, law enforcement
4 agencies, and probation departments to provide existing
5 information from their files regarding persons identified by the
6 Department of Justice as high risk sex offenders pursuant to Section
7 13885.4. The Department of Corrections and Rehabilitation, the
8 State Department of Mental Health, the Department of Motor
9 Vehicles, law enforcement agencies, and probation departments,
10 when requested by the Department of Justice, shall provide copies
11 of existing information maintained in their files regarding persons
12 identified by the Department of Justice as high risk sex offenders
13 and shall provide followup information to the Department of Justice
14 as it becomes available, *unless otherwise prohibited by federal*
15 *law*. This information shall include, but is not limited to, criminal
16 histories, Facts of Offense Sheets, sex offender registration records,
17 police reports, probation and presentencing reports, judicial records
18 and case files, juvenile records, psychological evaluations and
19 psychological hospital reports, and sexually violent predator
20 treatment program reports. This information shall also include
21 records that have been sealed. This information shall be provided
22 to the Department of Justice in a manner and format jointly
23 approved by the submitting department and the Department of
24 Justice. This high risk sex offender file shall be maintained by the
25 Department of Justice High Risk Sex Offender Program and shall
26 contain a complete physical description and method of operation
27 of the high risk sex offender, information describing his or her
28 interaction with criminal justice agencies, and his or her prior
29 criminal record. The Department of Justice also shall prepare a
30 bulletin on each high risk sex offender for distribution to law
31 enforcement agencies.

32 ~~SEC. 24.~~

33 *SEC. 25.* Section 13885.8 of the Penal Code is amended to
34 read:

35 13885.8. The Department of Justice shall electronically provide
36 a bulletin on each high risk sex offender to law enforcement
37 agencies via the California Sex Offender Registry database and
38 the California Law Enforcement Web (CLEW).

39 Upon request, the department shall provide the complete file of
40 information on a high risk sex offender to law enforcement

1 agencies, district attorneys, and the courts for the purpose of
2 identifying, apprehending, prosecuting, and sentencing high risk
3 sex offenders.

4 ~~SEC. 22.~~

5 *SEC. 26.* Section 40000.7 of the Vehicle Code is amended to
6 read:

7 40000.7. (a) A violation of any of the following provisions is
8 a misdemeanor, and not an infraction:

9 (1) Section 2416, relating to regulations for emergency vehicles.

10 (2) Section 2800, relating to failure to obey an officer's lawful
11 order or submit to a lawful inspection.

12 (3) Section 2800.1, relating to fleeing from a peace officer.

13 (4) Section 2801, relating to failure to obey a firefighter's lawful
14 order.

15 (5) Section 2803, relating to unlawful vehicle or load.

16 (6) Section 2813, relating to stopping for inspection.

17 (7) Subdivisions (b), (c), and (d) of Section 4461 and
18 subdivisions (b) and (c) of Section 4463, relating to disabled person
19 placards and disabled person and disabled veteran license plates.

20 (8) Section 4462.5, relating to deceptive or false evidence of
21 vehicle registration.

22 (9) Section 4463.5, relating to deceptive or facsimile license
23 plates.

24 (10) Section 5500, relating to the surrender of registration
25 documents and license plates before dismantling may begin.

26 (11) Section 5506, relating to the sale of a total loss salvage
27 vehicle, or of a vehicle reported for dismantling by a salvage
28 vehicle rebuilder.

29 (12) Section 5753, relating to delivery of certificates of
30 ownership and registration when committed by a dealer or any
31 person while a dealer within the preceding 12 months.

32 (13) Section 5901, relating to dealers and lessor-retailers giving
33 notice.

34 (14) Section 5901.1, relating to lessors giving notice and failure
35 to pay fee.

36 (15) Section 8802, relating to the return of canceled, suspended,
37 or revoked certificates of ownership, registration cards, or license
38 plates, when committed by any person with intent to defraud.

1 (16) Section 8803, relating to return of canceled, suspended, or
2 revoked documents and license plates of a dealer, manufacturer,
3 remanufacturer, transporter, dismantler, or salesman.

4 (b) This section shall become operative on January 1, 2001.

5 ~~SEC. 23.~~

6 *SEC. 27.* Section 58 of Chapter 28 of the Third Extraordinary
7 Session of the Statutes of 2009 is repealed.

8 ~~SEC. 24.~~

9 *SEC. 28.* Any section of any act, other than SB 1330, enacted
10 by the Legislature during the 2010 calendar year that takes effect
11 on or before January 1, 2011, and that amends, amends and
12 rennumbers, adds, repeals and adds, or repeals any one or more of
13 the sections affected by this act shall prevail over this act, whether
14 this act is enacted prior to, or subsequent to, the enactment of that
15 act. The repeal, or repeal and addition, of any article, chapter, part,
16 title, or division of any code by this act shall not become operative
17 if any section of any other act, other than SB 1330, that is enacted
18 by the Legislature during the 2010 calendar year and takes effect
19 on or before January 1, 2011, amends, amends and rennumbers,
20 adds, repeals and adds, or repeals any section contained in that
21 article, chapter, part, title, or division.

22 ~~SEC. 25.~~

23 *SEC. 29.* If the Commission on State Mandates determines that
24 this act contains costs mandated by the state, reimbursement to
25 local agencies and school districts for those costs shall be made
26 pursuant to Part 7 (commencing with Section 17500) of Division
27 4 of Title 2 of the Government Code.